Wisconsin Department of Safety and Professional Services
Division of Policy Development
4822 Madison Yards Way, 2nd Floor
PO Box 8366
Madison WI 53708-8366

Phone: 608-266-2112
Web: http://dsps.wi.gov
Email: dsps@wisconsin.gov

Tony Evers, Governor
Dawn B. Crim, Secretary

OPTOMETRY EXAMINING BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Yolanda Y. McGowan (608) 266-2112
May 30, 2019

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-4)

B. Approval of Minutes of February 7, 2019 (5)

C. Administrative Matters – Discussion and Consideration
1) Board, Department, and Staff Updates
2) Board Members – Term Expiration Dates

D. 9:00 A.M. PUBLIC HEARINGS: (6)
1) **Clearinghouse Rule 19-026, Opt 4, Relating to Licensure by Endorsement (7-22)**
   a. Review and Respond to Clearinghouse Report and Public Hearing Comments
2) **Clearinghouse Rule 19-027, Opt 6, Relating to Diagnostic and Therapeutic Pharmaceutical Agents (23-39)**
   a. Review and Respond to Clearinghouse Report and Public Hearing Comments
3) **Clearinghouse Rule 19-033 and EmR1906, Opt 3, 4, and 7, Relating to the Examination on the Treatment and Management of Ocular Disease (40-55)**
   a. Review and Respond to Clearinghouse Report and Public Hearing Comments

E. Legislative and Administrative Rule Matters – Discussion and Consideration (56)
1) Update on Clearinghouse Rule 19-028, SPS 10, Relating to the Use of Pharmaceutical Agents by Licensed Optometrists
2) Review and Consideration of the Scope Statement for Opt 5, Relating to Unprofessional Conduct **(57-58)**
3) Update on Clearinghouse Rule 18-021, Opt 8, Relating to Continuing Education
4) 2017 Wisconsin Act 262 Report Progress **(59-60)**
5) 2017 Wisconsin Act 108 Report Submitted on Behalf of the Optometry Examining Board **(61-62)**
6) Legislation, and Pending or Possible Rulemaking Projects

F. Prescription Drug Monitoring Program (PDMP) Update – Discussion and Consideration (63)

G. Review of Recent Amendments to the Wisconsin Medical Examining Board Opioid Prescribing Guideline – Discussion and Consideration (64-71)

H. Informational Items

1) 2019-2021 Licensure Fee and Credential Schedule **(72-79)**

I. Discussion and Consideration of Items Added After Preparation of Agenda

1) Introductions, Announcements and Recognition
2) Nominations, Elections, and Appointments
3) Administrative Matters
4) Election of Officers
5) Appointment of Liaisons and Alternates
6) Delegation of Authorities
7) Education and Examination Matters
8) Credentialing Matters
9) Practice Matters
10) Legislative and Administrative Rule Matters
11) Liaison Reports
12) Board Liaison Training and Appointment of Mentors
13) Informational Items
14) Division of Legal Services and Compliance (DLSC) Matters
15) Presentations of Petitions for Summary Suspension
16) Petitions for Designation of Hearing Examiner
17) Presentation of Stipulations, Final Decisions and Orders
18) Presentation of Proposed Final Decisions and Orders
19) Presentation of Interim Orders
20) Petitions for Re-Hearing
21) Petitions for Assessments
22) Petitions to Vacate Orders
23) Requests for Disciplinary Proceeding Presentations
24) Motions
25) Petitions
26) Appearances from Requests Received or Renewed
27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

J. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

K. Deliberation on Division of Legal Services and Compliance (DLSC) Matters

1) **Case Closings**
   a. 18 OPT 003 – T.C. **(80-82)**
   b. 18 OPT 005 – L.B.E. **(83-85)**
   c. 18 OPT 007 – P.A. **(86-88)**

L. Deliberation of Items Added After Preparation of the Agenda

1) Education and Examination Matters
2) Credentialing Matters
3) DLSC Matters
4) Monitoring Matters
5) Professional Assistance Procedure (PAP) Matters
6) Petitions for Summary Suspensions
7) Petitions for Designation of Hearing Examiner
8) Proposed Stipulations, Final Decisions and Orders
9) Proposed Interim Orders
10) Administrative Warnings
11) Review of Administrative Warnings
12) Proposed Final Decisions and Orders
13) Matters Relating to Costs/Orders Fixing Costs
14) Case Closings
15) Board Liaison Training
16) Petitions for Assessments and Evaluations
17) Petitions to Vacate Orders
18) Remedial Education Cases
19) Motions
20) Petitions for Re-Hearing
21) Appearances from Requests Received or Renewed

M. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

N. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

O. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT SCHEDULED MEETING: JULY 18, 2019

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MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to

confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

TELECONFERENCE/VIRTUAL
OPTOMETRY EXAMINING BOARD
MEETING MINUTES
FEBRUARY 7, 2019

PRESENT: Ann Meier Carli, Mark Jinkins, Robert Schulz, Peter Sorce

EXCUSED: Richard Foss, John Sterling

STAFF: Andrea Magermans, Program and Policy Analyst-Adv.; Helen Leong, Administrative Rules Coordinator; Maximilian Turner, Bureau Assistant; and other DSPS Staff

CALL TO ORDER

Ann Meier Carli, Chair, called the meeting to order at 8:17 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: Peter Sorce moved, seconded by Mark Jinkins, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 24, 2019

MOTION: Mark Jinkins moved, seconded by Ann Meier Carli, to approve the minutes of January 24, 2019 as published. Motion carried unanimously.

PRELIMINARY PUBLIC HEARING ON STATEMENT OF SCOPE: SS 010-19 – OPT 3, 4, 6 AND 7, RELATING TO EXAMINATION ON THE TREATMENT AND MANAGEMENT OF OCULAR DISEASE

MOTION: Mark Jinkins moved, seconded by Peter Sorce, to approve the Scope Statement, SS 010-19, revising Opt 3, 4, 6, and 7, relating to the examination on the treatment and management of ocular disease, for implementation after consideration of all public comments and feedback. Motion carried unanimously.

ADJOURNMENT

MOTION: Mark Jinkins moved, seconded by Robert Schulz, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 8:27 a.m.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Helen Leong, Administrative Rules Coordinator	May 17, 2019 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
May 30, 2019	☒ Yes ☐ No	**9:00 A.M. PUBLIC HEARING: Clearinghouse Rule 19-026, Opt 4, Relating to Licensure by Endorsement** 1. Review and respond to Clearinghouse Report and Public Hearing Comments **9:00 A.M. PUBLIC HEARING: Clearinghouse Rule 19-027, Opt 6, Relating to Diagnostic and Therapeutic Pharmaceutical Agents** 1. Review and respond to Clearinghouse Report and Public Hearing Comments **9:00 A.M. PUBLIC HEARING: Clearinghouse Rule 19-033 and EmR1906, Opt 3, 4, and 7, Relating to the Examination on the Treatment and Management of Ocular Disease** 1. Review and respond to Clearinghouse Report and Public Hearing Comments

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	

10) Describe the issue and action that should be addressed:

For each public hearing:
Hold public hearing, starting at 9:00 am
Discuss any public hearing comments.

Included for each rule:
1. Proposed Order
2. Fiscal Estimate & Economic Impact Analysis
3. Rules Clearinghouse Report and Comments
4. Any additional recommendations

11) Authorization

Helen Leong — May 17, 2019

Signature of person making this request — **Date**

Supervisor (if required) — **Date**

Executive Director signature (indicates approval to add post agenda deadline item to agenda) — **Date**

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

Revised 12/2016

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE OPTOMETRY EXAMINING BOARD	:	PROPOSED ORDER OF THE OPTOMETRY EXAMINING BOARD ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Optometry Examining Board to repeal Opt 4.01 (Note), Opt 4.02 (1) (c) (Note 1) and (Note 2), Opt 4.02 (1) (e) (Note), and Opt 4.03 (Note); amend Opt 4.01 (1), Opt 4.01 (2), Opt 4.01 (6), Opt 4.02 (2), and Opt 4.03 (2) (a) and (b); repeal and recreate Opt 4.02 (1) (d) and (Note); and create Opt 4.02 (3), relating to licensure by endorsement.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 449.055, Stats.

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that the examining board, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession."

Section 227.11 (2) (b), Stats., sets forth the parameters of an agency's rule-making authority, stating an agency, "may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure."

Related statute or rule:

s. 449.04, Stats., and Opt 3, relating to Licensure

Plain language analysis:

In order to clarify licensure by endorsement, this rule revision:

- Inserts cross-references into s. Opt 4.02 for relevant statutes to implement 2017 Act 278.
- Removes unnecessary notes.

- Simplifies the program approval process. The Board recognizes that programs that are accredited by the Accreditation Council on Optometric Education are approved for Wisconsin licensees. In order to prevent delays in the process of recognizing accredited programs, the Board is amending chapter Opt 4 to conform with chapter Opt 3 and remove the annual review of accredited programs.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

For licensure by endorsement, an applicant must submit proof of graduation from an accredited program, or a program recommended by the Illinois Optometric Licensing and Disciplinary Board to the Department of Financial and Professional Regulation-Division of Professional Regulation for approval. The applicant may also be required to submit proof of five or ten years of practice, depending on when they graduated; education or practice related to pharmaceutical agents, depending on when they graduated; and proof of passage of Parts I, II, and III, including the TMOD, of the National Board of Examiners in Optometry exam. The Board may waive examination requirements after consideration of additional evidence of education, training, and experience.

Iowa:

For licensure by endorsement, an applicant must have been licensed in another jurisdiction for three years. This requirement may be waived under specific circumstances. The application must include a transcript from an accredited program, successful completion of the National Board of Examiners in Optometry exam in effect at the time of initial licensure, and verification from other jurisdictions of any disciplinary action taken against the licensee. Additionally, the application must provide information of any civil litigation relating to the practice of optometry. If an applicant is certified by the Council on Endorsed Licensure Mobility for Optometrists (CELMO), then the applicant has fulfilled the education requirement. If an applicant is not CELMO certified, the Board will review the transcript to determine if the education meets specific requirements as outlined in rule.

Michigan:

For licensure by endorsement, an applicant must have graduated from a program accredited by the Accreditation Council on Optometric Education and successfully completed an examination that assesses the diagnosis, treatment, and management of ocular diseases with pharmaceutical agents. The applicant must submit proof of license in another jurisdiction with any disciplinary action imposed or pending; achieve a

minimum score of 75 on Michigan's laws and rules related to optometry; and certification to use therapeutic pharmaceutical agents.

Minnesota:

For licensure by endorsement, an applicant must have been licensed in another jurisdiction for three years. The applicant must have graduated from a board approved school or college of optometry, pass the required exams of the state where licensed, successfully pass an exam on Minnesota laws, be in good standing both with continuing education requirements and other license requirements. Additionally, the applicant must meet the requirements to prescribe legend drugs, including having completed education, experience, and exam requirements, in accordance with s. 148.575, MN Stats. The applicant may use CELMO documentation to verify these requirements.

Summary of factual data and analytical methodologies:

The Board reviewed their rules to ensure statutory compliance and that the rules are consistent with current practices.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Fiscal Estimate and Economic Impact Analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to

DSPSAdminRules@wisconsin.gov. Comments must be received before 9:00 am on May 30, 2019 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Opt 4.01 (1), (2), and (6) are amended to read:

Opt 4.01 (1) Has graduated from ~~an accredited school or college of optometry approved and recognized by the board~~ a program accredited by the Accreditation Council on Optometric Education.

Opt 4.01 (2) Has passed the examination of the ~~national board~~ National Board of ~~examiners~~ Examiners in ~~optometry~~ Optometry as required under s. Opt 4.03 (2).

Opt 4.01 (6) ~~Is not aware of~~ Does not have any pending complaints against the applicant or investigations of the applicant that relate to the practice of optometry.

SECTION 2. Opt 4.01 (Note) is repealed.

SECTION 3. Opt 4.02 (1) (c) (Note 1) and (Note 2) are repealed.

SECTION 4. Opt 4.02 (1) (d) and (Note) are repealed and recreated to read:

Opt 4.02 (1) (d) A certified transcript of the coursework completed by the applicant submitted directly to the board from a program accredited by the Accreditation Council on Optometric Education.

Note: Application forms are available on the department's website at dsps.wi.gov, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, Wisconsin 53708, or call (608) 266-2112. An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

SECTION 5. Opt 4.02 (1) (e) (Note) is repealed.

SECTION 6. Opt 4.02 (2) is amended to read:

Opt 4.02 (2) Applicants who have a pending criminal charge or have been convicted of any crime shall provide the board all related information necessary for the board to determine whether the circumstances of the pending criminal charge or conviction are substantially related to the circumstances of the licensed activity, subject to ss. 111.321, 111.322, and 111.335, Stats.

SECTION 7. Opt 4.02 (3) is created to read:

Opt 4.02 (3) An application may not be considered by the board until the application is complete, including the requisite verification of licensure from other state licensing

agencies in accordance with subsection (1) (e), verification of examination scores from the National Board of Examiners in Optometry in accordance with s. Opt 4.03, or any other required information under this chapter.

SECTION 8. Opt 4.03 (2) (a) and (b) are amended to read:

Opt 4.03 (2) (a) Parts I and II of the ~~national board examination~~ National Board of Examiners in Optometry, if the applicant has engaged in the practice of optometry for at least 5 years prior to January 1, 1996.

(b) Parts I, II, and III of the ~~national board examination~~ National Board of Examiners in Optometry, if the applicant has engaged in the practice of optometry for less than 5 years prior to January 1, 1996, or if the applicant graduated from ~~an approved college of optometry~~ a program accredited by the Accreditation Council on Optometric Education after December 1, 1995.

SECTION 9. Opt 4.03 (Note) is repealed.

SECTION 10. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis	2. Date
☒ Original ☐ Updated ☐ Corrected	January 28, 2019

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
Opt 4

4. Subject
Licensure by Endorsement

5. Fund Sources Affected	6. Chapter 20, Stats. Appropriations Affected
☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S	20.165(1)(g)

7. Fiscal Effect of Implementing the Rule
☐ No Fiscal Effect ☐ Increase Existing Revenues ☒ Increase Costs ☐ Decrease Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☒ Could Absorb Within Agency's Budget

8. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).
$0

10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be $10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?
☐ Yes ☒ No

11. Policy Problem Addressed by the Rule
In order to clarify licensure by endorsement, this rule revision:
- Inserts cross-references into s. Opt 4.02 for relevant statutes to implement 2017 Act 278.
- Removes unnecessary notes.
- Simplifies the program approval process. The Board recognizes that programs that are accredited by the Accreditation Council on Optometric Education are approved for Wisconsin licensees. In order to prevent delays in the process of recognizing accredited programs, the Board is amending chapter Opt 4 to conform with chapter Opt 3 and remove the annual review of accredited programs.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.
The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received..

13. Identify the Local Governmental Units that Participated in the Development of this EIA.
None.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.

The agency would have a fiscal impact of $186.58, which could be absorbed within the agency's operating budget.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit of implementing the rule is providing clarity and consistency with 2017 Act 278 and Opt 3, for applicants for

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101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

licensure by endorsement.

If the rule is not implemented, then applicants for licensure by endorsement may have unnecessary confusion regarding the application process.

16. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule will be that applicants for licensure by endorsement will have a more clear application process and will reduce unnecessary processes for the Board.

17. Compare With Approaches Being Used by Federal Government

None.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

For licensure by endorsement, an applicant must submit proof of graduation from an accredited program, or a program recommended by the Illinois Optometric Licensing and Disciplinary Board to the Department of Financial and Professional Regulation-Division of Professional Regulation for approval. The applicant may also be required to submit proof of five or ten years of practice, depending on when they graduated; education or practice related to pharmaceutical agents, depending on when they graduated; and proof of passage of Parts I, II, and III, including the TMOD, of the National Board of Examiners in Optometry exam. The Board may waive examination requirements after consideration of additional evidence of education, training, and experience.

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19. Contact Name	20. Contact Phone Number
Helen Leong, Administrative Rules Coordinator	608 - 266 - 0797

LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **19-026**

AN ORDER to repeal Opt 4.01 (Note), 4.02 (1) (c) (Note 1) and (Note 2) and (e) (Note), and 4.03 (Note); to amend Opt 4.01 (1), (2), and (6), 4.02 (2) and 4.03 (2) (a) and (b); to repeal and recreate Opt 4.02 (1) (d) and (Note); and to create Opt 4.02 (3), relating to licensure by endorsement.

Submitted by **OPTOMETRY EXAMINING BOARD**

03-20-2019 RECEIVED BY LEGISLATIVE COUNCIL.

04-15-2019 REPORT SENT TO AGENCY.

MSK:AB

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☑ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☑ NO ☐

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☑ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-026

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

a. In the rule summary's listing of statutory authority and the explanation of agency authority, is the reference to par. (b) of s. 227.11 (2), Stats., intended to be to par. (a)? Paragraph (a) is more commonly cited as granting general rulemaking authority when necessary to effectuate the purpose of a statute. [s. 1.02 (2m) (a), Manual.]

b. An entry should be inserted for the rule summary's description of the analysis and supporting documents used to determine the effect on small business.

c. It appears that the proposed note to s. Opt 4.02 (1) (d) should actually be placed under par. (e) of that provision.

d. In s. Opt 4.02 (3), the word "subsection" should be revised to the abbreviation "sub.". [s. 1.07 (2) (Table), Manual.]

e. Would it be helpful to add an initial applicability provision to identify the applications to which the rule first applies? [s. 1.02 (3m), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

In s. Opt 4.02 (3), why is the reference to sub. (1) limited to verification of the other state's licensure under par. (e) of that subsection? Should all the application materials under sub. (1) be

required? Consider revising this reference to include "the requisite application materials under sub. (1),", rather than only the verification of licensure under sub. (1) (e).

5. Clarity, Grammar, Punctuation and Use of Plain Language

In the rule summary's plain language analysis, it would be helpful to identify the subject matter of 2017 Wisconsin Act 278, rather than only citing the act number. For example, a phrase such as the following could be inserted after the citation to the act: ", which made various changes to the circumstances under which a licensing agency may base its decisions on an individual's criminal history.".

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE OPTOMETRY EXAMINING BOARD	:	PROPOSED ORDER OF THE OPTOMETRY EXAMINING BOARD ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Optometry Examining Board to repeal Opt 4.01 (Note), Opt 4.02 (1) (c) (Note 1) and (Note 2), Opt 4.02 (1) (e) (Note), and Opt 4.03 (Note); amend Opt 4.01 (1), Opt 4.01 (2), Opt 4.01 (6), Opt 4.02 (2), and Opt 4.03 (2) (a) and (b); repeal and recreate Opt 4.02 (1) (d) and (Note); and create Opt 4.02 (3), relating to licensure by endorsement.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 449.055, Stats.

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) (b), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that the examining board, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession."

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency's rule-making authority, stating an agency, "may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute".

Commented [LH-D1]: Clearinghouse Comment #2.a.

Related statute or rule:

s. 449.04, Stats., and Opt 3, relating to Licensure

Plain language analysis:

In order to clarify licensure by endorsement, this rule revision:

- Inserts cross-references into s. Opt 4.02 for relevant statutes to implement 2017 Act 278, which made various changes to the circumstances under which a licensing agency may base its decisions on an individual's criminal history.
- Removes unnecessary notes.

Commented [LH-D2]: Clearinghouse Comment #5

- Simplifies the program approval process. The Board recognizes that programs that are accredited by the Accreditation Council on Optometric Education are approved for Wisconsin licensees. In order to prevent delays in the process of recognizing accredited programs, the Board is amending chapter Opt 4 to conform with chapter Opt 3 and remove the annual review of accredited programs.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

For licensure by endorsement, an applicant must submit proof of graduation from an accredited program, or a program recommended by the Illinois Optometric Licensing and Disciplinary Board to the Department of Financial and Professional Regulation-Division of Professional Regulation for approval. The applicant may also be required to submit proof of five or ten years of practice, depending on when they graduated; education or practice related to pharmaceutical agents, depending on when they graduated; and proof of passage of Parts I, II, and III, including the TMOD, of the National Board of Examiners in Optometry exam. The Board may waive examination requirements after consideration of additional evidence of education, training, and experience.

Iowa:

For licensure by endorsement, an applicant must have been licensed in another jurisdiction for three years. This requirement may be waived under specific circumstances. The application must include a transcript from an accredited program, successful completion of the National Board of Examiners in Optometry exam in effect at the time of initial licensure, and verification from other jurisdictions of any disciplinary action taken against the licensee. Additionally, the application must provide information of any civil litigation relating to the practice of optometry. If an applicant is certified by the Council on Endorsed Licensure Mobility for Optometrists (CELMO), then the applicant has fulfilled the education requirement. If an applicant is not CELMO certified, the Board will review the transcript to determine if the education meets specific requirements as outlined in rule.

Michigan:

For licensure by endorsement, an applicant must have graduated from a program accredited by the Accreditation Council on Optometric Education and successfully completed an examination that assesses the diagnosis, treatment, and management of ocular diseases with pharmaceutical agents. The applicant must submit proof of license in another jurisdiction with any disciplinary action imposed or pending; achieve a

minimum score of 75 on Michigan's laws and rules related to optometry; and certification to use therapeutic pharmaceutical agents.

Minnesota:

For licensure by endorsement, an applicant must have been licensed in another jurisdiction for three years. The applicant must have graduated from a board approved school or college of optometry, pass the required exams of the state where licensed, successfully pass an exam on Minnesota laws, be in good standing both with continuing education requirements and other license requirements. Additionally, the applicant must meet the requirements to prescribe legend drugs, including having completed education, experience, and exam requirements, in accordance with s. 148.575, MN Stats. The applicant may use CELMO documentation to verify these requirements.

Summary of factual data and analytical methodologies:

The Board reviewed their rules to ensure statutory compliance and that the rules are consistent with current practices.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Commented [LH-D3]: Clearinghouse Comment #2.b. This paragraph was mistakenly placed under Fiscal Estimate and Economic Impact Analysis. It has been moved to the appropriate place and a statement was inserted to explain where to find the Fiscal Estimate and Economic Impact Analysis.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received before 9:00 am on May 30, 2019 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Opt 4.01 (1), (2), and (6) are amended to read:

Opt 4.01 (1) Has graduated from ~~an accredited school or college of optometry approved and recognized by the board~~ a program accredited by the Accreditation Council on Optometric Education.

Opt 4.01 (2) Has passed the examination of the ~~national board~~ National Board of ~~examiners~~ Examiners in ~~optometry~~ Optometry as required under s. Opt 4.03 (2).

Opt 4.01 (6) ~~Is not aware of~~ Does not have any pending complaints against the applicant or investigations of the applicant that relate to the practice of optometry.

SECTION 2. Opt 4.01 (Note) is repealed.

SECTION 3. Opt 4.02 (1) (c) (Note 1) and (Note 2) are repealed.

SECTION 4. Opt 4.02 (1) (d) is repealed and recreated to read:

Opt 4.02 (1) (d) A certified transcript of the coursework completed by the applicant submitted directly to the board from a program accredited by the Accreditation Council on Optometric Education.

SECTION 5. Opt 4.02 (1) (e) (Note) is repealed and recreated to read:

Commented [LH-D4]: Clearinghouse Comment #2.c.

Note: Application forms are available on the department's website at dsps.wi.gov, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, Wisconsin 53708, or call (608) 266-2112. An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

SECTION 6. Opt 4.02 (2) is amended to read:

Opt 4.02 (2) Applicants who have a pending criminal charge or have been convicted of any crime shall provide the board all related information necessary for the board to determine whether the circumstances of the pending criminal charge or conviction are substantially related to the circumstances of the licensed activity, subject to ss. 111.321, 111.322, and 111.335, Stats.

SECTION 7. Opt 4.02 (3) is created to read:

Opt 4.02 (3) An application may not be considered by the board until the application is complete, including the requisite application materials under sub. (1), verification of examination scores from the National Board of Examiners in Optometry in accordance with s. Opt 4.03, or any other required information under this chapter.

Commented [LH-D5]: Clearinghouse Comment #4.

Commented [LH-D6]: Clearinghouse Comment #2.d.

SECTION 8. Opt 4.03 (2) (a) and (b) are amended to read:

Opt 4.03 (2) (a) Parts I and II of the ~~national board examination~~ National Board of Examiners in Optometry, if the applicant has engaged in the practice of optometry for at least 5 years prior to January 1, 1996.

(b) Parts I, II, and III of the ~~national board examination~~ National Board of Examiners in Optometry, if the applicant has engaged in the practice of optometry for less than 5 years prior to January 1, 1996, or if the applicant graduated from ~~an approved college of optometry~~ a program accredited by the Accreditation Council on Optometric Education after December 1, 1995.

SECTION 9. Opt 4.03 (Note) is repealed.

SECTION 10. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE OPTOMETRY EXAMINING BOARD	:	PROPOSED ORDER OF THE OPTOMETRY EXAMINING BOARD ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Optometry Examining Board to repeal Opt 6.02 (1m); to renumber and amend Opt 6.02 (1); to amend Opt 6.01 and Opt 6.02 (3) and (6); to repeal and recreate Opt 6.03 and 6.04; and to create Opt 6.01 (Note), 6.02 (1) (a) to (i), 6.02 (1e), (1n), and (1s), 6.025, 6.025 (Note), and 6.05, relating to diagnostic and therapeutic pharmaceutical agents.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 449.17 and 449.18, Stats.

Statutory authority: Sections 15.08 (5) (b), 449.17 (1m) (a), and 449.18 (2) (a), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides examining boards, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains…"

Section 449.17 (1m) (a), Stats., provides that the "examining board shall certify an optometrist to use topical ocular diagnostic pharmaceutical agents…"

Section 449.18 (2) (a), Stats., provides the "examining board shall certify an optometrist to use therapeutic pharmaceutical agents and remove foreign bodies from an eye or from an appendage to the eye…"

Related statute or rule:

Chapter SPS 10, relating to the use of pharmaceutical agents by licensed optometrists

Plain language analysis:

Section 1 is amended to include s. 961.39, Stats., which outlines the limitations on optometrists in the Uniform Controlled Substances Act.

Section 2 adds a note to cross-reference ch. SPS 10, relating to the use of pharmaceutical agents by licensed optometrists.

Sections 3 and 4 amend the definition of "adverse drug reaction," amending to accommodate the revisions of ch. SPS 10, relating to the use of pharmaceutical agents by licensed optometrists, a concurrent rule project. The definition for "adverse drug reaction" is being repealed from ch. SPS 10, so the content is being moved to ch. Opt 6.

Section 5 repeals the definition for "adverse drug reaction referral plan" because the content of the definition, which previously referenced ch. SPS 10, is being recreated as s. Opt 6.025.

Section 6 moves three new definitions for "approved institution," "classroom hour," and "course of study in pharmacology" into ch. Opt 6, which was previously in ch. SPS 10.

Sections 7 and 9 amends the definitions for "DPA" and "TPA" to correct the reference to the revised ch. SPS 10, a concurrent rule project.

Section 8 repeals the definition for "100 hours of approved study." This definition is unnecessary and the content has been directly incorporated into the recreated s. Opt 6.04.

Section 10 creates a new section in ch. Opt 6 for the Adverse Drug Reaction Referral Plan, this information is moved from ch. SPS 10. It also adds a note to s. Opt 6.025 to state where a user can get the forms necessary to comply with s. Opt 6.025, Adverse Drug Reaction Referral Plan.

Section 11 repeals ss. Opt 6.03 and Opt 6.04 and recreates them. Section Opt 6.03 was a repeat of s. 449.17, Stats. The recreated s. Opt 6.03 distills the statutory language to the process and procedure used by the Optometry Examining Board in certifying optometrists for DPA. Section Opt 6.04 was a repeat of s. 449.18, Stats. The recreated s. Opt 6.04 distills the statutory language to the process and procedure used by the Optometry Examining Board in certifying optometrists for TPA and to remove foreign bodies from eyes.

Section 12 moves a section from ch. SPS 10 into ch. Opt 6 for Prescribing Therapeutic Pharmaceutical Agents.

Summary of, and comparison with, existing or proposed federal regulation:

The federal government schedules therapeutic pharmaceutical agents through the Controlled Substances Act, which categorizes optometrists as mid-level practitioners under Title 21, Code of Federal Regulations, Section 1300.01.

Comparison with rules in adjacent states:
Illinois:

Under Illinois law, optometrists may prescribe Schedule II (hydrocodone products only), III, IV, and V controlled substances and ocular pharmaceutical agents to patients without consulting a physician unless the patient is under 5 years of age. Ocular pharmaceutical agents include topical anesthetics, topical mydriatics, topical cycloplegics, topical miotics and mydriatic reversing agents, anti-infective agents, anti-allergy agents, anti-glaucoma agents (except oral carbonic anhydrase inhibitors, which may be prescribed only in a quantity sufficient to provide treatment for up to 30 days), anti-inflammatory agents (except oral steroids, which may be prescribed only in a quantity sufficient to provide treatment for up to 7 days), over-the-counter agents, analgesic agents, anti-dry eye agents, and agents for the treatment of hypotrichosis. The authority to prescribe a Schedule III, IV, or V controlled substance shall include analgesic agents only in a quantity sufficient to provide treatment for up to 72 hours. The prescription of a Schedule II controlled substance is prohibited, except for Dihydrocodeinone (Hydrocodone) with one or more active, non-narcotic ingredients only in a quantity sufficient to provide treatment for up to 72 hours, and only if such formulations of Dihydrocodeinone are reclassified as Schedule II by federal regulation. The Illinois Optometric Licensing and Disciplinary Board may recommend additional pharmaceutical agents approved by the FDA to the Department of Financial and Professional Regulation, and the Department shall promulgate rules to allow for the prescribing or administering pharmaceutical agents. See 225 ILCS 80/15.1.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Illinois are substantially equivalent to the requirements in Wisconsin. Both Illinois and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Illinois requires licensees to complete 24 hours of continuing education. Optometrists who are certified to use therapeutic ocular pharmaceuticals are required to complete an additional 6 hours of continuing education in the treatment of ocular disease. Illinois's administrative rules relating to the practice are found in Title 68: Professions and Occupations, Chapter VII: Department of Financial and Professional Regulation Part 1320, Optometric Practice Act of 1987.

Iowa:
Under Iowa law, the Board of Optometry Examiners is part of the Department of Public Health. An optometrist licensed by the Board of Optometry Examiners may employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa, excluding the use of injections other than to counteract an anaphylactic reaction, and may without charge supply any of the above pharmaceuticals to commence a course of therapy. Iowa Code § 154.1 3. and 4. Optometrists can prescribe oral medications including antibiotics, antivirals, and DMARDs, prescribe Schedule II, III, IV, and V drugs, and prescribe oral steroids (for a maximum of 14 days) without consultation of a physician. The Board of Pharmacy reviews requests for additions to the controlled substances schedules, and the Board's decision will amend Iowa Code section 124.201, subs. 4. 657-10.37, Iowa Admin. Code.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Iowa are substantially similar to the requirements in Wisconsin. Both Iowa and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Iowa and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Iowa requires optometrists who are not certified to use therapeutic pharmaceutical agents to complete 30 hours of continuing education, and optometrists who are certified to use therapeutic pharmaceutical agents to complete 50 hours of continuing education. Iowa's administrative rules relating to the practice of optometry are found in their chapters 179 to 183.

Michigan:
In Michigan, the Board of Optometry requires optometrists to be certified to administer topical ocular diagnostic pharmaceutical agents and to prescribe therapeutic pharmaceutical agents. R 338.315 and R 338.317. The authority to prescribe or administer pharmaceutical agents includes Schedule III, IV, and V drugs and dihydrocodeinone combination drugs. See 333.17401 (f), Michigan Stats. A controlled substances license is required to prescribe controlled substances. A management and emergency plan is also required. See Article 7 of Public Act 3.68 of 1978, as amended.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Michigan are substantially equivalent to the requirements in Wisconsin. Both Michigan and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Michigan and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Michigan requires 40 hours of continuing education. Michigan's administrative rules relating to the practice of Optometry are found in their sections R. 338.211 to 338.279 (General Rules) and R 338.291 (Ethical and Unprofessional Conduct).

Minnesota:
Optometrists may prescribe or administer FDA approved drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa included in the curricula of accredited schools or colleges of optometry, and as limited by Minnesota statute and adopted rules by the Board of Optometry. § 148.56 (a), Minn. Stats. Optometrists may not prescribe or administer Schedule II and III oral FDA approved drugs and oral steroids; prescribe oral antivirals for more than ten days; or prescribe or administer oral carbonic anhydrase inhibitors for more than seven days. § 148.56 (b), Minn. Stats. The Board of Pharmacy schedules substances. § 152.02, Minn. Stats.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Minnesota are substantially equivalent to the requirements in Wisconsin. Both states require applicants to be a graduate of an accredited college of

optometry and to pass a qualifying examination in order to obtain a license. Both states allow for applicants holding equivalent licensure from another jurisdiction to apply for licensure. In addition, both Minnesota and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to experience required in order to obtain a certification to use therapeutic pharmaceutical agents, Minnesota requires 2 years of supervised clinical experience in differential diagnosis of eye disease or disorders as part of optometric training or one year of that experience and ten years of actual clinical experience as a licensed optometrist. Other than experience or training required in conjunction with an initial optometry degree program, Wisconsin does not require an applicant to complete experience in order to obtain a certificate to use therapeutic pharmaceutical agents. In reference to continuing education, Minnesota and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Minnesota requires 40 hours of continuing education. Minnesota's administrative rules relating to the practice of optometry are under their Chapter 6500.

Summary of factual data and analytical methodologies:

Opt 6, relating to the Use of Diagnostic and Therapeutic Pharmaceutical Agents and Removal of Superficial Foreign Bodies From an Eye or From an Appendage to the Eye, was amended in 2007 to implement 2005 Wisconsin Act 297. The legislation shifted to the Optometry Examining Board from the Department of Safety and Professional Services the authority to determine which licensed optometrists may use pharmaceutical agents. The Department is also amending SPS 10 in order to fully enact 2005 Wisconsin Act 297. Staff have opened Opt 6 and SPS 10 concurrently to accurately and consistently implement this legislative shift. Revisions were reviewed by the Optometry Examining Board and DSPS staff to ensure accuracy.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Fiscal Estimate and Economic Impact Analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Helen Leong, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received before 9:00 am on May 30, 2019 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Opt 6.01 is amended to read:

Opt 6.01 Authority. The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11 (2), 449.17 ~~and~~ , 449.18, and 961.39, Stats.

SECTION 2. Opt 6.01 (Note) is created to read:

Note: To determine which pharmaceutical agents may be used by licensed optometrists, refer to ch. SPS 10, relating to the use of pharmaceutical agents by licensed optometrists.

SECTION 3. Opt 6.02 (1) is renumbered Opt 6.02 (1) (intro.) and amended to read:

(1) "Adverse drug reaction" ~~has the meaning given under s. SPS 10.01.~~ means an adverse, physical or psychological reaction experienced by a person resulting from diagnostic or therapeutic pharmaceutical agents administered by an optometrist that occurs within 24 hours after the drug is administered. An adverse drug reaction may be indicated by symptoms that include any of the following:

SECTION 4. Opt 6.02 (1) (a) to (i) are created to read:

(a) Red eye.
(b) Painful eye.
(c) Decrease in vision.
(d) Pale or red swelling of the periocular or periorbital tissues.
(e) Nausea.
(f) Vomiting.
(g) Fainting.
(h) Mental confusion.

(i) Cessation of respiration.

SECTION 5. Opt 6.02 (1m) is repealed.

SECTION 6. Opt 6.02 (1e), (1n), and (1s) are created to read:

(1e) "Approved institution" means an institution approved by the board and accredited by a regional or professional accrediting organization which is recognized by the Council for Higher Education Accreditation or its successor or the federal department of education, in accordance with ss. 449.17 (1m) (b) and 449.18 (2) (a) 2., Stats.

(1n) "Classroom hour" means a minimum of 50 minutes of lecture, group discussion, or laboratory. "Classroom hour" does not include time spent working in a clinic other than as part of a laboratory directly associated with a course in pharmacology.

(1s) "Course of study in pharmacology" means a course of study completed in an approved institution after 1973 in general and clinical pharmacology as it relates to optometry with the characteristics described in s. 449.17 (1m) (b), Stats. For a course, such as a continuing education course, that does not lead to a degree in optometry to qualify as part of a course of study in pharmacology, the course must include at least one examination on course content.

SECTION 7. Opt 6.02 (3) is amended to read:

(3) "DPA" or "~~diagnostical~~ diagnostic pharmaceutical agent" ~~has the meaning given under s. SPS 10.01.~~ means an agent authorized under s. SPS 10.02.

SECTION 8. Opt 6.02 (4) is repealed.

SECTION 9. Opt 6.02 (6) is amended to read:

(6) "TPA" or "therapeutic pharmaceutical agent" ~~has the meaning given under s. SPS 10.01.~~ means an agent authorized under s. SPS 10.03.

SECTION 10. Opt 6.025 and Opt 6.025 (Note) are created to read:

Opt 6.025 Adverse drug reaction referral plan. (1) An optometrist who wants to use diagnostic pharmaceutical agents authorized under s. SPS 10.02 or therapeutic pharmaceutical agents authorized under s. SPS 10.03 shall submit an adverse drug reaction referral plan prior to providing pharmaceutical agents. The plan shall be submitted to the department on an approved form in which the optometrist agrees to do all of the following:

(a) Refer any patient who notifies the optometrist of an adverse drug reaction to appropriate medical specialists or facilities.

(b) Routinely advise all patients to immediately contact the optometrist if the patient experiences adverse reactions.

(c) Place in a patient's permanent record information describing any adverse drug reactions experienced by the patient and the date and time that any referral was made.

(2) The plan shall include the names of at least 3 physicians, physician clinics, or hospitals to whom the optometrist agrees to refer patients who experience an adverse drug reaction. At least one of these physicians shall be skilled in the diagnosis and treatment of diseases of the eye.

(3) An optometrist authorized to use diagnostic or therapeutic pharmaceutical agents shall file a revised adverse drug reaction referral plan with the department within 10 working days after the optometrist designates a new physician, physician clinic, or hospital to which the optometrist agrees to refer patients who experience adverse drug reactions.

(4) An optometrist authorized to use therapeutic pharmaceutical agents shall file with the department within 10 working days of its occurrence a report on any adverse drug reaction resulting from the optometrist's administration of the agents. This report shall include all of the following:

(a) The optometrist's name, address, and license number.

(b) The patient's name, address, and age.

(c) The patient's presenting problem, the diagnosis, the agent administered and the method of administration, the reaction, and the subsequent action taken.

Note: The TPA Adverse Reaction Report and DPA/TPA Certification Application are available on the department's website at dsps.wi.gov, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, Wisconsin 53708, or call (608) 266-2112.

SECTION 11. Opt 6.03 and Opt 6.04 are repealed and recreated to read:

Opt 6.03. Certificate to use diagnostic pharmaceutical agents. (1) A licensed optometrist who has submitted an adverse drug reaction referral plan in accordance with s. Opt 6.025 is authorized to use diagnostic pharmaceutical agents if any of the following applies:

(a) The board initially issued a license to practice optometry to the optometrist on or after August 1, 2006.

(b) The department issued a certificate to the optometrist under s. 449.17, 2003 Stats.

(c) The board issued a certificate under sub. (2) to an optometrist issued a license to practice optometry before August 1, 2006.

(2) An optometrist licensed prior to August 1, 2006 shall be certified by the board to use diagnostic pharmaceutical agents if all of the following are completed:

(a) The optometrist submits an application to the department.

(b) The optometrist submits satisfactory evidence of 60 classroom hours of a course of study that is in accordance with sub. (3) and that was completed prior to entering the examination required in par. (c).

(c) The optometrist submits satisfactory evidence of passing one of the following:

1. Basic Science: Pharmacology, National Board of Medical Examiners (NBME®).
2. Parts I and II, National Board of Examiners in Optometry administered only after 1986.
3. An exam administered as part of the course of study under par. (b) that, as determined by the board, satisfactorily assesses competency in the subject matter described in sub. (3). The board may require additional evidence to approve the exam.

(3) A satisfactory course of study under par. (2) (b) at an approved institution includes at least 30 classroom hours of a course of study in pharmacology and emphasizes the systemic effects of and reactions to pharmaceutical agents, including the treatment of any adverse reactions that may occur, in accordance with s. 449.17 (1m) (b), Stats.

Opt 6.04. Certificate to use therapeutic pharmaceutical agents and remove foreign bodies from eyes. (1) A licensed optometrist who has submitted an adverse drug reaction referral plan in accordance with s. Opt 6.025 is authorized to use therapeutic pharmaceutical agents and remove foreign bodies from an eye or from an appendage to the eye if any of the following applies:

(a) The board initially issued a license to practice optometry to the optometrist on or after August 1, 2006.

(b) The board issued a certificate to the optometrist under s. 449.18, 2003 Stats.

(c) The board issued a certificate under sub. (2) to an optometrist issued a license to practice optometry before August 1, 2006.

(2) An optometrist licensed prior to August 1, 2006 shall be certified by the board to use therapeutic pharmaceutical agents under this section if all of the following are completed:

(a) The optometrist has a certificate to use diagnostic pharmaceutical agents in accordance with s. Opt 6.03.

(b) The optometrist submits an application to the department.

(c) The optometrist has completed all of the following:

1. One hundred classroom hours of study in the use of therapeutic pharmaceutical agents and the removal of superficial foreign bodies from an eye or from an appendage to the eye, on or after January 1, 1987 at an approved institution and achieved a minimum passing score.
2. Passed the Treatment and Management of Ocular Disease, TMOD®, National Board of Examiners in Optometry exam with a minimum score of 75, or a minimum passing score as determined by the board.

(3) An optometrist authorized under this section may not remove a foreign body from an eye or from an appendage to an eye if the foreign body is deeper than Bowman's layer of the cornea or deeper than the conjunctiva, in accordance with s. 449.18 (5), Stats.

SECTION 12. Opt 6.05 is created to read:

Opt 6.05. Prescribing therapeutic pharmaceutical agents. (1) Therapeutic pharmaceutical agents may be prescribed or administered by an optometrist only for the ocular therapeutic purposes for which the drugs are intended. These drugs shall be prescribed or administered in accordance with minimum standards and procedures established in the optometric profession. An optometrist may not prescribe or administer a therapeutic pharmaceutical agent which is not authorized under s. SPS 10.03. Approved agents may be used in combination only with other approved agents when appropriate.

(2) Prior to prescribing beta blockers or carbonic anhydrase inhibitors for the treatment of glaucoma, any oral antiviral, or any other therapeutic pharmaceutical agent under s. SPS 10.03 that may have significant systemic adverse drug reactions, the optometrist shall inform the patient's primary physician of the treatment plan and document that contact on the patient's chart. If the patient does not identify a primary physician, the patient shall be referred to a physician to determine the presence or absence of any systemic contraindications to the intended therapeutic agent. Following that assessment, and prior to prescribing, the prescribing optometrist shall contact the examining physician, documenting that contact on the patient's chart.

(3) Closed-angle glaucoma shall be considered an emergency in which the treating optometrist shall make immediate referral directly to a physician who specializes in the treatment of diseases of the eye and shall institute any emergency procedures as are directed by that physician.

SECTION 13. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Opt 6

3. Subject
Diagnostic and therapeutic pharmaceutical agents

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule
The Department of Safety and Professional Services has the authority to promulgate rules specifying the topical ocular diagnostic pharmaceutical agents which an optometrist may utilize and therapeutic pharmaceutical agents which may be administered or prescribed. 2005 Act 297 transferred all other authority relating to the use of pharmaceutical agents to the Optometry Examining Board. The Department of Safety and Professional Services is updating SPS 10 chapter to remove obsolete provisions relating to the application, examination, continuing education and reporting requirements. The Optometry Examining Board promulgated rules to implement 2005 Act 297, however, there are references to portions of SPS 10 which will be repealed as part of the Department of Safety and Professional Services' rule-making project.

The Optometry Examining Board is updating Opt 6 to ensure conformity with statutes and that there are no gaps created by the changes to SPS 10.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.

11. Identify the local governmental units that participated in the development of this EIA.
None.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

The primary benefit of updating Opt 6 is to ensure consistency with statutes and the pending updates to SPS 10 in order to provide clarity to licensees applying for DPA or TPA certificates, or both.

If the rule is not implemented, then licensees will have uncertainty and potential confusion if applying for a DPA or TPA certificate.

14. Long Range Implications of Implementing the Rule

The long-range implications of implementing the rule is providing transparency and consistency with the process of approving DPA and TPA certificates, consistent with statutory requirements, for licensees.

15. Compare With Approaches Being Used by Federal Government

The federal government schedules therapeutic pharmaceutical agents through the Controlled Substances Act, which categorizes optometrists as mid-level practitioners under Title 21, Code of Federal Regulations, Section 1300.01.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Under Illinois law, optometrists may prescribe Schedule II (hydrocodone products only), III, IV, and V controlled substances and ocular pharmaceutical agents to patients without consulting a physician unless the patient is under 5 years of age. Ocular pharmaceutical agents include topical anesthetics, topical mydriatics, topical cycloplegics, topical miotics and mydriatic reversing agents, anti-infective agents, anti-allergy agents, anti-glaucoma agents (except oral carbonic anhydrase inhibitors, which may be prescribed only in a quantity sufficient to provide treatment for up to 30 days), anti-inflammatory agents (except oral steroids, which may be prescribed only in a quantity sufficient to provide treatment for up to 7 days), over-the-counter agents, analgesic agents, anti-dry eye agents, and agents for the treatment of hypotrichosis. The authority to prescribe a Schedule III, IV, or V controlled substance shall include analgesic agents only in a quantity sufficient to provide treatment for up to 72 hours. The prescription of a Schedule II controlled substance is prohibited, except for Dihydrocodeinone (Hydrocodone) with one or more active, non-narcotic ingredients only in a quantity sufficient to provide treatment for up to 72 hours, and only if such formulations of Dihydrocodeinone are reclassified as Schedule II by federal regulation. The Illinois Optometric Licensing and Disciplinary Board may recommend additional pharmaceutical agents approved by the FDA to the Department of Financial and Professional Regulation, and the Department shall promulgate rules to allow for the prescribing or administering pharmaceutical agents. See 225 ILCS 80/15.1.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Illinois are substantially equivalent to the requirements in Wisconsin. Both Illinois and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Illinois requires licensees to complete 24 hours of continuing education. Optometrists who are certified to use therapeutic ocular pharmaceuticals are required to complete an additional 6 hours of continuing education in the treatment of ocular disease. Illinois's administrative rules relating to the practice are found in Title 68: Professions and Occupations, Chapter VII: Department of Financial and Professional Regulation Part 1320, Optometric Practice Act of 1987.

Iowa:

Under Iowa law, the Board of Optometry Examiners is part of the Department of Public Health. An optometrist licensed by the Board of Optometry Examiners may employ all diagnostic and therapeutic

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pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa, excluding the use of injections other than to counteract an anaphylactic reaction, and may without charge supply any of the above pharmaceuticals to commence a course of therapy. Iowa Code § 154.1 3. and 4. Optometrists can prescribe oral medications including antibiotics, antivirals, and DMARDs, prescribe Schedule II, III, IV, and V drugs, and prescribe oral steroids (for a maximum of 14 days) without consultation of a physician. The Board of Pharmacy reviews requests for additions to the controlled substances schedules, and the Board's decision will amend Iowa Code section 124.201, subs. 4. 657-10.37, Iowa Admin. Code.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Iowa are substantially similar to the requirements in Wisconsin. Both Iowa and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Iowa and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Iowa requires optometrists who are not certified to use therapeutic pharmaceutical agents to complete 30 hours of continuing education, and optometrists who are certified to use therapeutic pharmaceutical agents to complete 50 hours of continuing education. Iowa's administrative rules relating to the practice of optometry are found in their chapters 179 to 183.

Michigan:
In Michigan, the Board of Optometry requires optometrists to be certified to administer topical ocular diagnostic pharmaceutical agents and to prescribe therapeutic pharmaceutical agents. R 338.315 and R 338.317. The authority to prescribe or administer pharmaceutical agents includes Schedule III, IV, and V drugs and dihydrocodeinone combination drugs. See 333.17401 (f), Michigan Stats. A controlled substances license is required to prescribe controlled substances. A management and emergency plan is also required. See Article 7 of Public Act 3.68 of 1978, as amended.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Michigan are substantially equivalent to the requirements in Wisconsin. Both Michigan and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Michigan and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Michigan requires 40 hours of continuing education. Michigan's administrative rules relating to the practice of Optometry are found in their sections R. 338.211 to 338.279 (General Rules) and R 338.291 (Ethical and Unprofessional Conduct).

Minnesota:
Optometrists may prescribe or administer FDA approved drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa included in the curricula of accredited schools or colleges of optometry, and as limited by Minnesota statute and adopted rules by the Board of Optometry. § 148.56 (a), Minn. Stats. Optometrists may not prescribe or administer Schedule II and III oral FDA approved drugs and oral steroids; prescribe oral antivirals for more than ten days; or prescribe or administer oral carbonic anhydrase inhibitors for more than seven days. § 148.56 (b), Minn. Stats. The Board of Pharmacy schedules substances. § 152.02, Minn. Stats.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Minnesota are substantially equivalent to the requirements in Wisconsin. Both states require applicants to be a graduate of an accredited college of optometry and to pass a qualifying examination in order to obtain a license. Both states allow for applicants holding equivalent licensure from another jurisdiction to apply for licensure. In addition, both Minnesota and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to experience required in order to obtain a certification to use therapeutic pharmaceutical agents, Minnesota requires 2 years of supervised clinical experience in differential diagnosis of eye disease or disorders as part of optometric training or one year of that experience and ten years of actual clinical experience as a licensed optometrist. Other than experience or training required in conjunction with an initial optometry degree program, Wisconsin does not require an applicant to complete experience in order to obtain a certificate to use therapeutic pharmaceutical agents. In reference to continuing education, Minnesota and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Minnesota requires 40 hours of continuing education. Minnesota's administrative rules relating to the practice of optometry are under their Chapter 6500.

17. Contact Name	18. Contact Phone Number
Helen Leong, Administrative Rules Coordinators	608 – 266 – 0797

This document can be made available in alternate formats to individuals with disabilities upon request.

LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **19-027**

AN ORDER to repeal Opt 6.02 (1m); to renumber and amend Opt 6.02 (1); to amend Opt 6.01 and 6.02 (3) and (6); to repeal and recreate Opt 6.03 and 6.04; and to create Opt 6.01 (Note), 6.02 (1) (a) to (i), (1e), (1n), and (1s), 6.025 and (Note), and 6.05, relating to diagnostic and therapeutic pharmaceutical agents.

Submitted by **OPTOMETRY EXAMINING BOARD**

03-20-2019 RECEIVED BY LEGISLATIVE COUNCIL.

04-15-2019 REPORT SENT TO AGENCY.

SG:BL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☐ NO ☑

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☐ NO ☑

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☐ NO ☑

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

Two corrections are listed below for the requirements for DPA and TPA certifications, respectively:

Opt 6.03 (2) An optometrist licensed prior to August 1, 2006 shall be certified by the board to use diagnostic pharmaceutical agents if all of the following are completed:

(a) The optometrist submits an application to the department.

(b) The optometrist submits satisfactory evidence of 60 classroom hours of a course of study that is in accordance with sub. (3) and that was completed prior to entering the examination required in par. (c).

(c) The optometrist submits satisfactory evidence of passing one of the following:

1. ~~Basic Science: Pharmacology, National Board of Medical Examiners (NBME®)~~ Section 9, ocular pharmacology, National Board of Examiners in Optometry administered only after 1981.

2. Parts I and II, National Board of Examiners in Optometry administered only after 1986.

3. An exam administered as part of the course of study under par. (b) that, as determined by the board, satisfactorily assesses competency in the subject matter described in sub. (3). The board may require additional evidence to approve the exam.

(3) A satisfactory course of study under par. (2) (b) at an approved institution ~~includes~~ shall include at least 30 classroom hours of a course of study in pharmacology and emphasizes the systemic effects of and reactions to pharmaceutical agents, including the treatment of any adverse reactions that may occur, in accordance with s. 449.17 (1m) (b), Stats.

Opt 6.04 (2) (c) The optometrist has completed all of the following:

1. One hundred classroom hours of post doctorate study in the use of therapeutic pharmaceutical agents and the removal of superficial foreign bodies from an eye or from an appendage to the eye, on or after January 1, 1987 at an approved institution and achieved a minimum passing score.

2. Passed one of the following approved examinations:

a. An exam administered as part of the course of study under subd. 1. that, as determined by the board, satisfactorily assesses competency. The board may require additional evidence to approve the exam.

b. ~~the~~ The Treatment and Management of Ocular Disease, TMOD®, National Board of Examiners in Optometry exam administered after 1985 with a minimum passing score ~~of 75, or a minimum passing score~~ as determined by the board in accordance with s. Opt 3.07.

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	OPTOMETRY EXAMINING BOARD
OPTOMETRY EXAMINING BOARD	:	ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 010-19, was approved by the Governor on January 3, 2019, published in Register No. 757A3 on January 14, 2019, and approved by the Optometry Examining Board on February 7, 2019. This emergency rule was approved by the Governor on February 22, 2019.

ORDER

An order of the Optometry Examining Board to amend Opt 3.02 (3), 4.03 (2) (b), and 7.05 (2) (b) 2. a., relating to the examination on the treatment and management of ocular disease.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Optometry Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Optometry Examining Board requires that license applicants pass Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examination. Part II of the NBEO has an embedded portion on the Treatment and Management of Ocular Disease (TMOD). The TMOD questions, "test knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye," in accordance with s. 449.04 (2), Stats. Therapeutic pharmaceutical agents include opioids, under s. 961.39, Stats. However, the passing score of Part II is determined as an overall score, so that applicants can fail the TMOD embedded questions yet pass Part II of the examination. The Board needs to amend the administrative rules for the health, safety, and welfare of the people of Wisconsin to clarify that applicants need to pass the TMOD portion as part of Part II.

ANALYSIS

Statutes interpreted: ss. 440.08 (3) (b), 449.04 (1) (c) and (2), and 449.055 (1), Stats.

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) (b), 440.08 (3) (b), and 449.04 (1) (c), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that the examining board, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession."

Section 227.11 (2) (b), Stats., sets forth the parameters of an agency's rule-making authority, stating an agency, "may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure."

Section 440.08 (3) (b), Stats., states that, "the interested examining board … may promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements in order to restore the credential …"

Section 449.04 (1) (c), Stats., requires that a, "person passes an examination approved or conducted by the examining board" in order to be granted a license. Subsection (2) states that, "[t]he examination shall test knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye," and that "the examining board may do any of the following:

(a) Prepare, administer, and grade the examination.
(b) Approve in whole or in part an examination prepared, administered, and graded by the national board of examiners in optometry or another examination provider approved by the examining board.
(c) Approve and administer an examination prepared and graded by or under the direction of the national board of examiners in optometry or another examination provider approved by the examining board."

Related statute or rule:

Opt 6, relating to the use of diagnostic and therapeutic pharmaceutical agents and removal of superficial foreign bodies from an eye or from an appendage to the eye

Plain language analysis:

The rules for licensure by examination, licensure by endorsement, and late renewal are amended to conform to statute, specifically to clarify that applicants need to pass the TMOD exam in order to meet the statutorily-defined minimum standards.

Summary of, and comparison with, existing or proposed federal regulation:

The federal government schedules therapeutic pharmaceutical agents through the Controlled Substances Act, which categorizes optometrists as mid-level practitioners under Title 21, Code of Federal Regulations, Section 1300.01.

Summary of public comments and feedback on the statement of scope:

The Optometry Examining Board, upon direction under s. 227.136 (1), Stats., held a preliminary public hearing and comment period on February 7, 2019 for SS 010-19. The Board received one public testifier in support of the statement of scope. After consideration of the public comments, the Board approved the statement of scope for implementation.

Comparison with rules in adjacent states:
Illinois:

The Optometric Licensing and Disciplinary Board, under the Illinois Department of Financial and Professional Regulation, requires that, "[t]he examination for licensure as an optometrist in Illinois shall be Part I, Part II, including passage of the Treatment and Management of Ocular Disease (TMOD) section after January 1, 1996, and Part III of the examination administered by the National Board of Examiners in Optometry (NBEO)." Title 68, section 1320.40 (a), Illinois Administrative Code.

Iowa:

The Board of Optometry, under the Iowa Department of Public Health, requires that applicants "pass all parts of the NBEO examination in effect at the time of application." 645-180.02 (1), Iowa Administrative Code. According to the NBEO website, that includes passing the TMOD independently of passing Part II, NBEO.

Michigan:

The Michigan Board of Optometry, under the Department of Licensing and Regulatory Affairs, requires that applicants submit passing scores on Parts 1, 2, and 3 of the National Board (NBEO) Examinations as well as the Treatment and Management of Ocular Disease (TMOD) Examination embedded in Part 2, in accordance with R 338.307 (3), Michigan Administrative Rules.

Minnesota:

The Minnesota Board of Optometry requires passage of the NBEO Parts I, II, III, and the TMOD. See *General Information* for applicants at mn.gov/boards/optometry.

Summary of factual data and analytical methodologies:

The Optometry Examining Board reviewed their rules to ensure statutory compliance and that the rules are consistent with current practices.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Optometrists licensed after 2006 have the authority under chapter 449 to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye. Under section 449.04 (2), Stats., applicants are required to be tested on, "knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye." The TMOD embedded questions in Part II of the NBEO are an essential component of evaluating applicants' preparation for practicing Optometry competently in the State of Wisconsin. Optometrists licensed before 2006 are required to pass the TMOD exam or its equivalent prior to being granted a therapeutic pharmaceutical agent (TPA) certificate, which provides the authority to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye.

Thus, this rule project will ensure that the administrative rules are compliant with statute and consistent for all licensees. For new applicants, applicants for licensure by endorsement, and for those who are submitting a late renewal, the rules identifying qualifying exams need to be updated to clarify that passage of the TMOD is required for licensure, in accordance with the statutorily-defined minimum standards.

Fiscal Estimate:

These rules will have no fiscal impact.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Nia.Trammell1@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Helen Leong, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366,

Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on these rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Department of Safety and Professional Services' website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. Opt 3.02 (3) is amended to read:

Opt 3.02 (3) Verification of passing parts I, II, ~~and~~ III, and the Treatment and Management of Ocular Disease examination of the National Board of Examiners in Optometry examination.

SECTION 2. Opt 4.03 (2) (b) is amended to read:

Opt 4.03 (2) (b) Parts I, II, ~~and~~ III, and the Treatment and Management of Ocular Disease examination of the national board examination, if the applicant has engaged in the practice of optometry for less than 5 years prior to January 1, 1996, or if applicant graduated from an approved college of optometry after December 1, 1995.

SECTION 3. Opt 7.05 (2) (b) 2. a. is amended to read:

Opt 7.05 (2) (b) 2. a. Passing parts I, II, ~~and~~ III, and the Treatment and Management of Ocular Disease examination of the National Board of Examiners in Optometry examination.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect upon publication in the official state newspaper, pursuant to s. 227.22 (2) (c), Stats.

(END OF TEXT OF RULE)

Dated March 8, 2019 Agency Ann Ben Carleton

Chairperson
Optometry Examining Board

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE OPTOMETRY EXAMINING BOARD	:	PROPOSED ORDER OF THE OPTOMETRY EXAMINING BOARD ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Optometry Examining Board to amend Opt 3.02 (3), 4.03 (2) (b), and 7.05 (2) (b) 2. a.; and to repeal and recreate Opt 4.01 (9), relating to the examination on the treatment and management of ocular disease.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 440.08 (3) (b), 449.04 (1) (c) and (2), and 449.055 (1), Stats.

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) (b), 440.08 (3) (b), and 449.04 (1) (c), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., states that the examining board, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession."

Section 227.11 (2) (b), Stats., sets forth the parameters of an agency's rule-making authority, stating an agency, "may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure."

Section 440.08 (3) (b), Stats., states that, "the interested examining board … may promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements in order to restore the credential …"

Section 449.04 (1) (c), Stats., requires that a, "person passes an examination approved or conducted by the examining board" in order to be granted a license. Subsection (2) states that, "[t]he examination shall test knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic

pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye," and that "the examining board may do any of the following:

(a) Prepare, administer, and grade the examination.

(b) Approve in whole or in part an examination prepared, administered, and graded by the national board of examiners in optometry or another examination provider approved by the examining board.

(c) Approve and administer an examination prepared and graded by or under the direction of the national board of examiners in optometry or another examination provider approved by the examining board."

Related statute or rule:

Opt 6, relating to the use of diagnostic and therapeutic pharmaceutical agents and removal of superficial foreign bodies from an eye or from an appendage to the eye

Plain language analysis:

The rules for licensure by examination, licensure by endorsement, and late renewal are being amended to clarify that applicants need to pass all parts of the National Board of Examiners in Optometry (NBEO) including the embedded portion in Part II, the Treatment and Management of Ocular Disease (TMOD) exam.

Summary of, and comparison with, existing or proposed federal regulation:

The federal government schedules therapeutic pharmaceutical agents through the Controlled Substances Act, which categorizes optometrists as mid-level practitioners under Title 21, Code of Federal Regulations, Section 1300.01.

Summary of public comments and feedback on the statement of scope:

The Optometry Examining Board, upon direction under s. 227.136 (1), Stats., held a preliminary public hearing and comment period on February 7, 2019 for SS 010-19. The Board received one public testifier in support of the statement of scope. After consideration of the public comments, the Board approved the statement of scope for implementation.

Comparison with rules in adjacent states:
Illinois:

The Optometric Licensing and Disciplinary Board, under the Illinois Department of Financial and Professional Regulation, requires that, "[t]he examination for licensure as an optometrist in Illinois shall be Part I, Part II, including passage of the Treatment and Management of Ocular Disease (TMOD) section after January 1, 1996, and Part III of the

examination administered by the National Board of Examiners in Optometry (NBEO)." Title 68, section 1320.40 (a), Illinois Administrative Code.

Iowa:

The Board of Optometry, under the Iowa Department of Public Health, requires that applicants "pass all parts of the NBEO examination in effect at the time of application." 645-180.02 (1), Iowa Administrative Code. According to the NBEO website, that includes passing the TMOD independently of passing Part II, NBEO.

Michigan:

The Michigan Board of Optometry, under the Department of Licensing and Regulatory Affairs, requires that applicants submit passing scores on Parts 1, 2, and 3 of the National Board (NBEO) Examinations as well as the Treatment and Management of Ocular Disease (TMOD) Examination embedded in Part 2, in accordance with R 338.307 (3), Michigan Administrative Rules.

Minnesota:

The Minnesota Board of Optometry requires passage of the NBEO Parts I, II, III, and the TMOD. See *General Information* for applicants at mn.gov/boards/optometry.

Summary of factual data and analytical methodologies:

Optometrists licensed after 2006 have the authority under chapter 449 to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye. Under section 449.04 (2), Stats., applicants are required to be tested on, "knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye." The TMOD embedded questions in Part II of the NBEO are an essential component of evaluating applicants' preparation for practicing Optometry competently in the State of Wisconsin. Optometrists licensed before 2006 are required to pass the TMOD exam or its equivalent prior to being granted a therapeutic pharmaceutical agent (TPA) certificate, which provides the authority to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye.

Thus, this rule project will ensure that the administrative rules are compliant with statute. For new applicants, applicants for licensure by endorsement who were licensed after 1996, and for those who are submitting a late renewal, the rules identifying qualifying exams need to be updated to clarify that passage of the TMOD is required, in accordance with the statutorily-defined minimum standards.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before 9:00 AM on May 30, 2019 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Opt 3.02 (3) is amended to read:

Opt 3.02 (3) Verification of passing parts I, II, including passage of the Treatment and Management of Ocular Disease examination, and III of the National Board of Examiners in Optometry examination.

SECTION 2. Opt 4.01 (9) is repealed and recreated to read:

Opt 4.01 (9) Has completed the education and examination requirements to the satisfaction of the board in compliance with Opt 6.

SECTION 3. Opt 4.03 (2) (b) is amended to read:

Opt 4.03 (2) (b) Parts I, II, including passage of the Treatment and Management of Ocular Disease examination, and III of the national board examination, if the applicant has engaged in the practice of optometry for less than 5 years prior to January 1, 1996, or if applicant graduated from an approved college of optometry after December 1, 1995.

SECTION 4. Opt 7.05 (2) (b) 2. a. is amended to read:

Opt 7.05 (2) (b) 2. a. Passing parts I, II, including the passage of the Treatment and Management of Ocular Disease examination, and III of the National Board of Examiners in Optometry examination.

SECTION 5. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Date
March 14, 2019

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
Opt 3, 4, and 7

4. Subject
Examination on the Treatment and Management of Ocular Disease

5. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

6. Chapter 20, Stats. Appropriations Affected

7. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs ☐ Decrease Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget

8. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy
☐ Local Government Units
☐ Specific Businesses/Sectors
☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).
$0

10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be $10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?
☐ Yes ☒ No

11. Policy Problem Addressed by the Rule
The rules for licensure by examination, licensure by endorsement, and late renewal are being amended to clarify that applicants need to pass all parts of the National Board of Examiners in Optometry (NBEO) including the embedded portion in Part II, the Treatment and Management of Ocular Disease (TMOD) exam.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.
The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received

13. Identify the Local Governmental Units that Participated in the Development of this EIA.
No local governmental units participated in the development of the EIA.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmetnal units, or the state's economy as a whole.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The Optometry Examining Board requires that new license applicants pass Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examination. Part II of the NBEO has an embedded portion on the Treatment and Management of Ocular Disease (TMOD). The TMOD questions, "test knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye," in accordance with s. 449.04 (2), Stats. Therapeutic pharmaceutical agents include opioids, under s. 961.39, Stats. However, the passing score of Part II is determined as an overall score, so that applicants can fail the TMOD embedded

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FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

questions yet pass Part II of the examination. The Board needs to amend the administrative rules for the health, safety, and welfare of the people of Wisconsin to clarify that applicants need to pass the TMOD portion as part of Part II.

If the administrative rules are not amended to clarify that new applicants are required to pass the TMOD portion, there may be licensed Optometrists who are authorized to prescribe therapeutic pharmaceutical agents, including opioids, who failed the TMOD questions on the board examination.

16. Long Range Implications of Implementing the Rule

Optometrists licensed after 2006 have the authority under chapter 449 to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye. Under section 449.04 (2), Stats., applicants are required to be tested on, "knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye." The TMOD embedded questions in Part II are an essential component of evaluating new applicants' preparation for practicing Optometry competently in the State of Wisconsin.

Optometrists licensed before 2006 are required to pass the TMOD exam or its equivalent prior to being granted a therapeutic pharmaceutical agent (TPA) certificate, which provides the authority to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye. Thus, this rule project will ensure that the administrative rules are compliant with statute and consistent for all licensees.

17. Compare With Approaches Being Used by Federal Government

The federal government schedules therapeutic pharmaceutical agents through the Controlled Substances Act, which categorizes optometrists as mid-level practitioners under Title 21, Code of Federal Regulations, Section 1300.01.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:
The Optometric Licensing and Disciplinary Board, under the Illinois Department of Financial and Professional Regulation, requires that, "[t]he examination for licensure as an optometrist in Illinois shall be Part I, Part II, including passage of the Treatment and Management of Ocular Disease (TMOD) section after January 1, 1996, and Part III of the examination administered by the National Board of Examiners in Optometry (NBEO)." Title 68, section 1320.40 (a), Illinois Administrative Code.

Iowa:
The Board of Optometry, under the Iowa Department of Public Health, requires that applicants "pass all parts of the NBEO examination in effect at the time of application." 645-180.02 (1), Iowa Administrative Code. According to the NBEO website, that includes passing the TMOD independently of passing Part II, NBEO.

Michigan:
The Michigan Board of Optometry, under the Department of Licensing and Regulatory Affairs, requires that applicants submit passing scores on Parts 1, 2, and 3 of the National Board (NBEO) Examinations as well as the Treatment and Management of Ocular Disease (TMOD) Examination embedded in Part 2, in accordance with R 338.307 (3), Michigan Administrative Rules.

Minnesota:
The Minnesota Board of Optometry requires passage of the NBEO Parts I, II, III, and the TMOD. See General Information for applicants at mn.gov/boards/optometry.

19. Contact Name	20. Contact Phone Number
Helen Leong, Administrative Rules Coordinator	(608) 266 - 0797

This document can be made available in alternate formats to individuals with disabilities upon request.

LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **19-033**

AN ORDER to amend Opt 3.02 (3), 4.03 (2) (b), and 7.05 (2) (b) 2. a.; and to repeal and recreate Opt 4.01 (9), relating to the examination on the treatment and management of ocular disease.

Submitted by **OPTOMETRY EXAMINING BOARD**

04-09-2019 RECEIVED BY LEGISLATIVE COUNCIL.

05-01-2019 REPORT SENT TO AGENCY.

SG:SM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☐ NO ☑

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☑ NO ☐

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☑ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-033

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

4. Adequacy of References to Related Statutes, Rules and Forms

In SECTION 2, "ch." should precede "Opt 6".

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. A period should be added to the sentence in the "Related statute or rule" section of the plain language analysis.

b. SECTION 2 of the proposed rule is vague and may not give applicants for licensure by endorsement notice of the required qualifications. The provision could be changed to clarify exactly which education and examination requirements are referenced and what it means to be in compliance with ch. Opt 6.

RECOMMENDATIONS FOR CHANGES

Clearinghouse Comments:

4. Adequacy of References to Related Statutes, Rules and Forms
In SECTION 2, "ch." should precede "Opt 6".

ACCEPT

5. Clarity, Grammar, Punctuation and Use of Plain Language
a. A period should be added to the sentence in the "Related statute or rule" section of the plain language analysis.

ACCEPT

b. SECTION 2 of the proposed rule is vague and may not give applicants for licensure by endorsement notice of the required qualifications. The provision could be changed to clarify exactly which education and examination requirements are referenced and what it means to be in compliance with ch. Opt 6.

REJECT

Due to the various requirements included in ch. Opt 6 for prescribing pharmaceutical agents, providing a broader reference gives notice to the applicant that additional requirements might be necessary and where to look to find them. Providing a more specific reference could potentially mislead the applicant depending on their circumstances. Additionally, since Opt 6 is under a full revision, any more specific cross-reference would be inaccurate once the revised Opt 6 becomes effective.

Additional Comment:

Revise SECTION 4. Remove "the" from the inserted language to read:

"including passage of the Treatment and Management of Ocular Disease examination,"

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Helen Leong, Administrative Rules Coordinator	May 17, 2019 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
May 30, 2019	☒ Yes ☐ No	**Legislation and Rule Matters – Discussion and Consideration** 1. Update on Clearinghouse Rule 19-028, SPS 10, Relating to the Use of Pharmaceutical Agents by Licensed Optometrists 2. Review and consideration of the Scope Statement for Opt 5, Relating to Unprofessional Conduct 3. Update on Clearinghouse Rule 18-021, Opt 8, Relating to Continuing Education 4. 2017 WI Act 262 Report Progress 5. Act 108 Report submitted on behalf of the Optometry Examining Board 6. Legislation, and Pending or Possible Rulemaking Projects

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	

10) Describe the issue and action that should be addressed:

11) Authorization

Helen Leong — May 17, 2019

Signature of person making this request — **Date**

Supervisor (if required) — **Date**

Executive Director signature (indicates approval to add post agenda deadline item to agenda) **Date**

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

STATEMENT OF SCOPE

Optometry Examining Board

Rule No.: Opt 5

Relating to: Unprofessional conduct

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only): N/A

2. Detailed description of the objective of the proposed rule:

The Board has determined that a revision of Opt 5 is necessary to ensure the requirements are current with standards of care and practice standards. Specifically, the Board will consider Opt 5.14, relating to disclosure requirements on extended wear contact lenses, and Opt 5.11, which mandates that licensees verify that ophthalmic lenses meet technical standards. The Board will undertake a comprehensive review to potentially update the identified provisions and the chapter to ensure consistency and clarity for licensees.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Board would like to review the quality standards for ophthalmic lenses referenced in Opt 5.11 and the disclosure requirements in Opt 5.14 to ensure that the administrative rules are reflective of the current practice of optometry and adequately protects patients. The Board will take action to review and potentially update the identified provisions and further review the chapter to ensure it is current with standards of care and practice standards.

This review will ensure that licensees have clear guidance on the requirements for professional conduct.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats., states that the examining board, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession."

Section 227.11 (2) (a), Stats., sets forth the parameters of an agency's rule-making authority, stating an agency, "may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation."

Section 449.25, Stats., provides that the examining board shall promulgate rules relating to informed consent, stating that, "[a]ny optometrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments…"

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The Department estimates approximately 80 hours will be needed to perform the review and develop any rule changes. The Department will assign existing staff to perform the review and develop the rule changes. No additional resources will be required.

6. List with description of all entities that may be affected by the proposed rule:

Licensed optometrists and their patients.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The rule changes contemplated in this project are not expected to have any negative economic impacts on any of the affected entities.

Contact Person: Helen Leong, Administrative Rules Coordinator
(608) 266-0797 DSPSAdminRules@wisconsin.gov

_____
Chairperson

_____
Date Submitted

WISCONSIN OPTOMETRY EXAMINING BOARD

4822 Madison Yards Way
PO Box 8366
Madison WI 53705-8366

Email: dsps@wisconsin.gov
Voice: 608-266-2112
FAX: 608-251-3032

Wisconsin Optometry Examining Board Report on Opioid Abuse – October 2018

Scope and purpose of the report: 2017 Wisconsin Act 262 requires the Optometry Examining Board to annually submit a report related to the issue of opioid abuse to the Legislature and Governor's Office. This preliminary report must include proactive efforts taken by the Board to address the issue of opioid abuse and goals for addressing the issue of opioid abuse as it relates to the practice of optometry in Wisconsin. Future reports must also include actions taken by the Board to achieve the goals identified in previous reports, and whether those goals have been achieved.

Proactive efforts taken by the Board to address the issue of opioid abuse:

Limited Prescribing Authority

Optometrists have limited prescribing authority for controlled substances. Optometrists licensed prior to August 1, 2006 must obtain certificates to prescribe diagnostic pharmaceutical agents and therapeutic pharmaceutical agents. Those who are licensed after August 1, 2006 or have certificates to prescribe pharmaceutical agents may prescribe Schedule III, IV, or V controlled substances in accordance with ss. 449.18 and 961.39, Stats., and SPS 10, Admin. Code, and may also prescribe one Schedule II controlled substance:

a. Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.
b. Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

Controlled Substances Prescribing Guidelines

The Board adopted the Best Practices for Prescribing Controlled Substances Guidelines on March 16, 2017, in response to 2015 Act 269. The Guidelines were developed using the Centers for Disease Control and Prevention's Guideline for Prescribing Opioids for Chronic Pain; the Wisconsin Medical Examining Board's Opioid Prescribing Guideline; National Transportation Safety Board recommendations; and other states' guidelines. The Best Practices for Prescribing

Controlled Substances Guidelines are available at www.dsps.wi.gov and were emailed to all licensees in June 2017.

Education on National Trends

The Board annually sends at least one member to the Association of Regulatory Boards of Optometry, Inc. Annual Meeting to interact with regulatory colleagues and discuss the hot topics and shared concerns in the regulatory community.

Continuing Education Related to Prescribing Controlled Substances

On May 31, 2018, the Board unanimously moved to amend Opt 8, relating to continuing education, to require licensees to complete 2 hours of continuing education relating to prescribing controlled substances in the 2019/2021 biennium. This requirement has been added to the on-going rule project for Opt 8, which is expected to take effect on December 15, 2019.

Goals for addressing the issue of opioid abuse as it relates to the practice of optometry in Wisconsin:

Education on the issue of opioid abuse

The Board is working with PDMP staff to learn what data is available from the Prescription Drug Monitoring Program (PDMP) in order to learn how extensively the database is being used by licensees. Additionally, the Board is working with the Department of Safety and Professional Services to review the therapeutic pharmaceutical agents specified in SPS 10 to ensure the rule is up to date with minimum standards of care.

Enforcement Action

Currently, if an investigation of an optometrist's prescriptive practices occurs, it is done in response to a complaint filed against the optometrist. The Board's goal is to, in partnership with the Controlled Substances Board, begin proactively investigating optometrists whose prescriptive practices with controlled substances appear excessive relative to other medical professionals. The Controlled Substances Board will use reports generated from the Prescription Drug Monitoring Program to refer optometrists to the Board for possible investigation.

Communications to Licensees

The Board will disseminate updates to licensees relating to new continuing education requirements on prescribing controlled substances, changes relating to enforcement actions, and additional information relating to what the Board determines after examining the data available from the PDMP.

Ann Meier Carli
Chairperson

Mark Jinkins
Secretary

WISCONSIN OPTOMETRY EXAMINING BOARD

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March 27, 2019

Senator Stephen Nass, Senate Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 10 South, State Capitol
Madison, WI 53702

Representative Joan Ballweg, Assembly Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 210 North, State Capitol
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Ballweg:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

I. Unauthorized rules, as defined in s. 227.26 (4) (a), Stats.:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are unauthorized rules, as defined in s. 227.26 (4) (a), Stats.

II. Rules for which the authority to promulgate has been restricted:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are rules for which the authority to promulgate has been restricted.

III. Rules that are obsolete or that have been rendered unnecessary:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are obsolete or have been rendered unnecessary.

IV. Rules that are duplicative or, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction:

Rule	Citation or the text of the statute, regulation, or ruling.	Action taken to address or reason for not taking an action
ss. Opt 3.02 (3), Opt 4.03 (2) (b), Opt 7.05	The rules for licensure need to be clarified to ensure applicants pass the embedded questions on the treatment and management of ocular disease, in	Emergency rule effective March 12, 2019, hearing for emergency and permanent rule expected for May 30, 2019.

(2) (b) 2. a.	accordance with the statutory requirements in s. 449.04 (2), Stats.	

V. Rules that are economically burdensome:

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are economically burdensome.

Thank you.

Sincerely,

Ann Meier Carli
Chairperson
Optometry Examining Board

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Andrea Magermans and Sarah Bradley	05/17/2019 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:
Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
05/30/2019	☐ Yes ☒ No	Prescription Drug Monitoring Program (PDMP) Update – Discussion and Consideration

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☒ Yes, by PDMP Staff ☐ No	

10) Describe the issue and action that should be addressed:

Discussion of PDMP as it relates to Optometry

11) Authorization

Signature of person making this request **Date**

Andrea Magermans 5/17/19

Supervisor (if required) **Date**

Executive Director signature (indicates approval to add post agenda deadline item to agenda) **Date**

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
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3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Helen Leong, Administrative Rules Coordinator	May 17, 2019 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
May 30, 2019	☒ Yes ☐ No	Review of recent amendments to the Wisconsin Medical Examining Board Opioid Prescribing Guideline

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	

10) Describe the issue and action that should be addressed:

You may view the published Wisconsin Medical Examining Board Opioid Prescribing Guideline here. The attached materials highlight the specific changes adopted at the January 16, 2019 Wisconsin Medical Examining Board meeting.

11) Authorization

Signature of person making this request	Date
Helen Leong	May 17, 2019
Supervisor (if required)	**Date**
Executive Director signature (indicates approval to add post agenda deadline item to agenda)	**Date**

Directions for including supporting documents:
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WISCONSIN MEDICAL EXAMINING BOARD

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FAX: 608-251-3032

Wisconsin Medical Examining Board Opioid Prescribing Guideline – January 16, 2019

Scope and purpose of the guideline: To help providers make informed decisions about acute and chronic pain treatment -pain lasting longer than three months or past the time of normal tissue healing. The guideline is not intended for patients who are in active cancer treatment, palliative care, or end-of-life care. Although not specifically designed for pediatric pain, many of the principals upon which they are based could be applied there, as well.

Opioids pose a potential risk to all patients. The guideline encourages providers to implement best practices for responsible prescribing which includes prescribing the lowest effective dose for the shortest possible duration for post-operative care and acutely-injured patients.

Identify and treat the cause of the pain, use non-opioid therapies
Use non-pharmacologic therapies (such as yoga, exercise, cognitive behavioral therapy and complementary/alternative medical therapies) and non-opioid pharmacologic therapies (such as acetaminophen and anti-inflammatories) for acute and chronic pain. Don't use opioids routinely for chronic pain. When opioids are used, combine them with non-pharmacologic or non-opioid pharmacologic therapy, as appropriate, to provide greater benefits.

Start low and go slow
When opioids are used, prescribe the lowest possible effective dosage and start with immediate-release opioids instead of extended-release/long-acting opioids. Only provide the quantity needed for the expected duration of pain.

Close follow-up
Regularly monitor patients to make sure opioids are improving pain and function without causing harm. If benefits do not outweigh harms, optimize other therapies and work with patients to taper or discontinue opioids, if needed.

What's included in the guideline?
The guideline addresses patient-centered clinical practices including conducting thorough assessments, considering all possible treatments, treating the cause of the pain, closely monitoring risks, and safely discontinuing opioids. The three main focus areas in the guideline include:

1. **Determining when to initiate or continue opioids**
   -Selection of non-pharmacologic therapy, non-opioid pharmacologic therapy, opioid therapy
   -Establishment of treatment goals
   -Discussion of risks and benefits of therapy with patients

2. **Opioid selection, dosage, duration, follow-up and discontinuation**
   -Selection of immediate-release or extended-release and long-acting opioids
   -Dosage considerations
   -Duration of treatment
   -Considerations for follow-up and discontinuation of opioid therapy

3. **Assessing risk and addressing harms of opioid use**
   -Evaluation of risk factors for opioid-related harms and ways to mitigate/reduce patient risk
   -Review of prescription drug monitoring program (PDMP) data
   -Use of urine drug testing
   -Considerations for co-prescribing benzodiazepines
   -Arrangement of treatment for opioid use disorder

Prescription Opioid Guideline

1. Pain is a subjective experience and at present, physicians lack options to objectively quantify pain severity other than by patient reported measures including pain intensity. While accepting the patient's report of pain, the clinician must simultaneously decide if the magnitude of the pain complaint is commensurate with causative factors and if these have been adequately evaluated and addressed with non-opioid therapy.

2. It is best practice for a practitioner to consider guidelines within their specialty when prescribing opioids.

3. In treating acute pain, if opioids are at all indicated, the lowest dose and fewest number of opioid pills needed should be prescribed. In most cases, less than 3 days' worth are necessary, and rarely more than 5 days' worth. Left-over pills in medicine cabinets are often the source for illicit opioid abuse in teens and young adults. When prescribing opioids, physicians should consider writing two separate prescriptions for smaller amounts of opioids with specific refill dates, rather than a single large prescription. Most patients do not fill the second prescription, thus limiting opioid excess in a patient's home and potential misuse.

4. A practitioner's first priority in treating a patient in pain is to identify the cause of the pain and, if possible, to treat it. While keeping the patient comfortable during this treatment is important, it is critical to address to the extent possible the underlying condition as the primary objective of care.

   a. Patients unwilling to obtain definitive treatment for the condition causing their pain should be considered questionable candidates for opioids. If opioids are prescribed to such patients, documentation of clear clinical rationale should exist.

   b. Opioids should not be prescribed unless there is a medical condition present which would reasonably be expected to cause pain severe enough to require an opioid. For conditions where this is questionable, use of other treatments instead of opioids should be strongly considered.

   c. Consultation should be considered if diagnosis of and/or treatment for the condition causing the pain is outside of the scope of the prescribing practitioner.

5. Opioids should not necessarily be the first choice in treating acute or chronic pain.

a. Acute pain: Evidence for opioids is weak. Other treatments such as acetaminophen, anti-inflammatories, and non-pharmacologic treatments should be attempted prior to initiating opioid therapy. Although opioids could be simultaneously prescribed if it is apparent from the patient's condition that he/she will need opioids in addition to these. Don't use opioids routinely for chronic pain. When opioids are used, combine them with non-pharmacologic or non-opioid pharmacologic therapy, as appropriate, to provide greater benefits.

b. Acute pain lasting beyond the expected duration: A complication of the acute pain issue (surgical complication, nonunion of fracture, etc.) should be ruled out. If complications are ruled out, a transition to non-opioid therapy (tricyclic antidepressant, serotonin/norepinephrine re-uptake inhibitor, anticonvulsant, etc.) should be attempted.

c. Chronic pain: Evidence for opioids is poor. Other treatments such as acetaminophen, anti-inflammatories, and non-pharmacologic treatments (such as yoga, exercise, cognitive behavioral therapy and complementary/alternative medical therapies) should be utilized. Multiple meta-analyses demonstrate that the benefits of opioids are slight, while annualized mortality rates dramatically increased. There are few if any treatments in medicine with this poor a risk/benefit ratio, and there should be adequate clinical indication to indicate why chronic opioid therapy was chosen in a given patient. **Note:** There is no high-quality evidence to support opioid therapy longer than 6 months in duration. Despite this fact, it is considered acceptable although not preferable to continue patients on treatment who have been on chronic opioid therapy prior to this Guideline's release and who have shown no evidence of aberrant behavior.

d. Patients unwilling to accept non-pharmacological and/or nonnarcotic treatments (or those providing questionably credible justifications for not using them) should not be considered candidates for opioid therapy.

6. Patients should not receive opioid prescriptions from multiple physicians. There should be a dedicated provider such as a primary care or pain specialist to provide all opioids used in treating any patient's chronic pain, with existing pain contracts being honored. Physicians should avoid prescribing controlled substances for patients who have run out of previously prescribed medication or have had previous prescriptions lost or stolen.

7. Physicians should avoid using intravenous or intramuscular opioid injections for patients with exacerbations of chronic non-cancer pain in the emergency department or urgent care setting.

8. Physicians are encouraged to review the patient's history of controlled substance prescriptions using the Wisconsin Prescription Drug Monitoring Program (PDMP) data to determine whether the patient is receiving opioid dosages or dangerous combinations that put him or her at high risk for overdose. As of April 2017, Wisconsin state law requires prescribers to review the PDMP before prescribing any controlled substance for greater than a three-day supply.

9. Pain from acute trauma or chronic degenerative diseases can oftentimes be managed without opioids prior to surgery. Surgical patients using opioids preoperatively have higher complications rates, require more narcotics postoperatively, and have lower satisfaction rates with poorer outcomes following surgery.

10. Prescribing of opioids is strongly discouraged in patients taking benzodiazepines or other respiratory depressants. Benzodiazepines triple the already high increases in respiratory depression and annual mortality rates from opioids. If they are used concurrently, clear clinical rationale must exist.

11. The use of oxycodone is discouraged. There is no evidence to support that oxycodone is more effective than other oral opioids, while there are multiple studies indicating that oxycodone is more abused and has qualities that would promote addiction to a greater degree than other opioids. As a result, oxycodone should not be considered first-line and should be used only in patients who cannot tolerate other opioids and who have been evaluated for and found not to demonstrate increased risk of abuse.

12. Patients presenting for chronic pain treatment should have a thorough evaluation, which may include the following:

- **a.** Medical history and physical examination targeted to the pain condition.
- **b.** Nature and intensity of the pain.
- **c.** Current and past treatments, with response to each treatment.
- **d.** Underlying or co-existing diseases or conditions, including those which could complicate treatment (i.e., renal disease, sleep apnea, chronic obstructive pulmonary disease (COPD), etc.).
- **e.** Effect of pain on physical and psychological functioning.
- **f.** Personal and family history of substance abuse.
- **g.** History of psychiatric disorders associated with opioid abuse (bipolar, attention deficit disorders (ADD/ADHD), sociopathic, borderline, untreated/severe depression).
- **h.** Medical indication(s) for use of opioids.

13. Initiation of opioids for chronic pain should be considered on a trial basis. Prior to starting opioids, objective symptomatic and functional goals should be established with the patient. If after a reasonable trial these goals are not met, then opioids should be weaned or discontinued.

14. Practitioners should always consider the risk-benefit ratio when deciding whether to start or continue opioids. Risks and benefits should be discussed with patients prior to initiating chronic opioid therapy, and continue to be reassessed during that therapy. If evidence of increased risk develops, weaning or discontinuation of opioids should be considered. If evidence emerges that indicates that the opioids put a patient at the risk of imminent danger (overdose, addiction, etc.), or that they are being diverted, opioids should be discontinued and the patient should be treated for withdrawal, if needed.

- **a.** Exceptions to this include patients with unstable angina and pregnant patients, especially in the 3rd trimester (withdrawal could precipitate pre-term labor).
- **b.** Components of ongoing assessment of risk include:
  - **i.** Review of the Prescription Drug Monitoring Program (PDMP) information.
  - **ii.** Periodic urine drug testing (including chromatography) – at least yearly in low risk cases, more frequently with evidence of increased risk.
  - **iii.** Violations of the opioid agreement.
  - **iv.** Periodic pill counts may also be considered for high risk patients.

15. All patients on chronic opioid therapy should have informed consent consisting of:

- **a.** Specifically detailing significant possible adverse effects of opioids, including (but not limited to) addiction, overdose, and death. It is also recommended practitioners discuss with patients the effect opioid use may have on the ability to safely operate machinery or a vehicle in any mode of transportation.
- **b.** Treatment agreement, documenting the behaviors required of the patient by the prescribing practitioner to ensure that they are remaining safe from these adverse effects.

16. Initial dose titration for both acute and chronic pain should be with short-acting opioids. For chronic therapy, it would be appropriate once an effective dose is established to consider long-acting agents for a majority of the daily dose.

17. Opioids should be prescribed in the lowest effective dose. This includes prescribing the lowest effective dose for the shortest possible duration for post-operative care and acutely-injured patients. If daily doses for chronic pain reach 50 morphine milligram equivalents (MMEs), additional precautions should be implemented (see #13.b. above). Given that there is no evidence base to support efficacy of doses over 90 MMEs, with dramatically increased risks, dosing above this level is strongly discouraged, and appropriate documentation to support such dosing should be present on the chart.

18. The use of methadone is not encouraged unless the practitioner has extensive training or experience in its use. Individual responses to methadone vary widely; a given dose may have no effect on one patient while causing overdose in another. Metabolism also varies widely and is highly sensitive to multiple drug interactions, which can cause accumulation in the body and overdose. For a given analgesic effect, the respiratory depressant effect is much stronger compared to other opioids. Finally, methadone can have a potent effect on prolonging the QTc, predisposing susceptible patients to potentially fatal arrhythmias.

19. Prescribing of opioids is strongly discouraged for patients abusing illicit drugs. These patients are at extremely high risk for abuse, overdose, and death. If opioids are prescribed to such patients, a clear and compelling justification should be present.

20. During initial opioid titration, practitioners should re-evaluate patients every 1-4 weeks. During chronic therapy, patients should be seen at least every 3 months, more frequently if they demonstrate higher risk.

21. Practitioners should consider prescribing naloxone for home use in case of overdose for patients at higher risk, including:

- **a.** History of overdose (a relative contraindication to chronic opioid therapy).
- **b.** Opioid doses over 50 MMEs/day.
- **c.** Clinical depression.
- **d.** Evidence of increased risk by other measures (behaviors, family history, PDMP, UDS, risk questionnaires, etc.).

The recommended dose is 0.4 mg for IM or intranasal use, with a second dose available if the first is ineffective or wears off before EMS arrives. Family members can be prescribed naloxone for use with the patient.

22. All practitioners are expected to provide care for potential complications of the treatments they provide, including opioid use disorder. As a result, if a patient receiving opioids develops behaviors indicative of opioid use disorder, the practitioner, when possible, should assist the patient in obtaining addiction treatment, either by providing it directly (buprenorphine, naltrexone, etc. plus behavioral therapy) or referring them to an appropriate treatment center or provider willing to accept the patient. Discharging a patient from the provider's practice solely due to an opioid use disorder is not considered acceptable.

23. Discontinuing Opioid Therapy

a. If lack of efficacy of opioid therapy is determined, discontinuation of therapy should be performed.

~~**i.** Opioid weaning can be performed by reducing the MED by 10% weekly until 5-10 mg MED remain at which time the opioid can be fully discontinued.~~

~~**ii.** Prescription of clonidine 0.2 mg po BID or tizanidine 2 mg po TID can be provided to patients complaining of opioid withdrawal related symptoms.~~

b. If evidence of increased risk develops, ~~weaning or~~ safe discontinuation of opioid should be considered.

~~**i.** Opioid weaning can be performed by reducing the MED by 25% weekly until 5-10 mg MED remain at which time the opioid can be fully discontinued.~~

~~**ii.** Prescription of clonidine 0.2 mg po BID or tizanidine 2 mg po TID can be provided to patients complaining of opioid withdrawal related symptoms.~~

~~**iii.** Physicians can consider weekly or bi-monthly follow-up during the weaning process.~~

c. If evidence emerges that indicates that the opioids put a patient at the risk of imminent danger (overdose, addiction, etc.), or that they are being diverted, opioids should be immediately discontinued, and the patient should be treated for withdrawal, if needed.

Exceptions to abrupt opioid discontinuation include patients with unstable angina and pregnant patients. These patients should be weaned from the opioid medications in a gradual manner with close follow-up.

24. Current HIPAA Guidance for the Sharing of Protected Health Information with a Patient's Family Members and Loved Ones Irrespective of Patient Wishes.

Interpretive guidance from the US Department of Health and Human Services Office of Civil Rights, indicates that HIPAA regulations allow health professionals to share health information with a patient's loved ones in emergency or dangerous situations such as opioid overdose. HIPAA allows health care professionals to disclose some health information without a patient's permission under certain circumstances, including: in cases where the patient is incapacitated or unconscious, or where a serious and imminent threat to a patient's health or safety exists. For example, a doctor whose patient has overdosed on opioids is presumed to have complied with HIPAA if the doctor informs family, friends, or caregivers of the opioid abuse after determining, based on the facts and circumstances, that the patient poses a serious and imminent threat to his or her health through continued opioid abuse upon discharge.

Resources

CDC Guideline for Prescribing Opioids for Chronic Pain--United States 2016. Dowell D1, Haegerich TM1, Chou R1., JAMA. 2016 Apr 19;315(15):1624-45. doi:10.1001/jama.2016.1464.

Chronic Opioid Clinical Management Guidelines for Wisconsin Worker's Compensation Patient Care. https://dwd.wisconsin.gov/wc/medical/pdf/CHRONIC%20OPIOID%20CLINICAL%20MANAGEMENT%20GUIDELINES%20.pdf

Within-subject comparison of the psychopharmacological profiles of oral oxycodone and oral morphine in non-drug-abusing volunteers. Zacny, James, & Lichtor, Stephanie. Psychpharmacology (2008) 196:105-116

Subjective, Psychomotor, and Physiological Effects Profile of Hydrocodone/Acetaminophen and Oxycodone/Acetaminophen Combination Products. Zachny, James, & Gutierrez, Sandra. Pain Medicine (2008) Vol 9, No 4: 433-443

Positive and Negative Subjective Effects of Extended-Release Oxymorphone versus Controlled-Release Oxycodone in Recreational Opioid Users. Schoedel, Kerri et. al. Journal of Opioid Management 7:3 May/June 2011. 179-192

Tapentadol Abuse Potential: A Postmarketing Evaluation Using a Sample of Individuals Evaluated for Substance Abuse Treatment. Stephen F. Butler, PhD et. al., Pain Medicine 2015; 16: 119–130

Methadone Safety: A Clinical Practice Guideline from the American Pain Society and College on Problems of Drug Dependence, in collaboration with the Heart Rhythm Society. Chou R1, et. al., J Pain. 2014 Apr;15(4):321-37

Emerging Issues in the Use of Methadone. SAMHSA Substance Abuse Treatment Advisory, Spring 2009, Volume 8, Issue 1, available at http://store.samhsa.gov/shin/content//SMA09-4368/SMA09-4368.pdf

Opioid Use, Misuse, and Abuse in Orthopedic Practice. American Academy of Orthopedic Surgeons, Information Statement 1045, October, 2015, available at http://www.aaos.org/PositionStatements/Statement1045/?ssopc=1

Wisconsin Medical Society Opioid Prescribing Principles. https://www.wisconsinmedicalsociety.org/advocacy/boards-councils/society-initiatives/opioid-task-force/opioid-prescribing-principles/

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Kimberly Wood, Program Assistant Supervisor-Adv. On behalf of Executive Directors Christian Albouras or Debra Sybell	5/15/2019
	Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

All Boards and Councils

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
	☒ Yes ☐ No	Informational Item 1. 2019-2021 Licensure Fee and Credential Schedule

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	N/A

10) Describe the issue and action that should be addressed:

Informational Only

11) Authorization

Kimberly Wood *5/15/2019*

Signature of person making this request — Date

Supervisor (if required) — Date

Executive Director signature (indicates approval to add post agenda deadline item to agenda) — Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

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Tony Evers, Governor
Dawn B. Crim, Secretary

May 2019

Dear State of Wisconsin Boards, Councils and Committee Member,

As you may already know, operation of the Department of Safety and Professional Services (DSPS) is self-funded by the fees associated with the occupation or business credentials it issues and regulates under chapters 440 to 480 of Wisconsin Statutes.

Wisconsin State Statute § 440.03(9)(a) requires DSPS to conduct a professional licensure fee study every two years to adjust fees for the succeeding fiscal biennium. The purpose of the fee study is to reflect the approximate administrative and enforcement costs of the department that are attributable to the regulation of the referenced credentials.

On February 20, 2019, the Joint Finance Committee approved the FY 2019-2021 professional licensure fee study conducted by the DSPS. I am pleased to provide you with the new fee schedule that will take effect on July 1, 2019.

The new fees are based on actual operating costs and revenues for DSPS for fiscal years 2017 and 2018 (July 1, 2016 to June 30, 2018). A detailed explanation how the fees were recalculated, including licensure/credential participation rates, complaints and investigations, and adjustments for inflation can be found in the Frequently Asked Questions document.

For all regulated professional and medical licenses and credentials (except the renewal fee for one profession noted in the enclosed fee schedule), initial application and renewal fees will be reduced or maintained at the current level, including the following:

- Maintaining initial and renewal fees for 43 licenses/credentials (approximately 25 percent)
- Reducing initial fees for 82 licenses/credentials (approx. 48 percent) with an average reduction of $26.78
- Reducing renewal fees for 121 licenses/credentials (approx. 71 percent) with an average reduction of $57.42
- Reducing both the initial and renewal fees for 80 licenses/credentials (approx. 47 percent)
- Providing a fee reduction to at least one of the fees (initial and/or renewal) for 127 licenses/credentials (approx. 75 percent)
- Establishing equal fees for both initial applications and renewals with a maximum fee of $75 for163 licenses/credentials (approx. 96 percent) (exceptions per state statute for fees related to Appraisal Management Companies and Transportation Network Companies; exception per administrative code for fees related to Unarmed Combat Sports)
- Providing a reduced fee to an estimated 361,000 Wisconsin licensure/credential applicants over the next biennium, (approx. 96 percent of all applicants)

The new fee schedule will take effect beginning with initial license applications received in the Department and/or postmarked on or after July 1, 2019, and for license renewals that have an effective date of July 1, 2019 or later. It should be noted that if a license holder receives a notice of renewal prior to July 1, 2019, for a renew-by date of after July 1, 2019, the new fees will apply regardless of when the notice is received or when payment is made. If a license holder's renewal-by date is before July 1, 2019, and the payment is made after July 1, 2019, the fee noted on the notice of renewal will still apply. If the license holder's renew-by date is on or after July 1, 2019, the new fees will apply.

If you have any questions regarding the information provided, please do not hesitate to contact Yolanda McGowan, Division Administrator, Division of Policy Development.

Sincerely,

Dawn B. Crim
Secretary-designee, Department of Safety and Professional Services

Enclosure

Board/Admin.	License/Credential Name	Project	Current Initial Fee	Current Renewal Fee	Proposed Initial Fee	Proposed Renewal Fee	Initial Fee Change	Renewal Fee Change
Accounting Exam Bd	Accountant CPA	16500P1ACBD001	$75.00	$82.00	$43.00	$43.00	-$32.00	-$39.00
Accounting Exam Bd	Accounting Firm	16500P1ACBD003	$75.00	$82.00	$43.00	$43.00	-$32.00	-$39.00
Acupuncturist	Acupunturist	16500P1ADLD055	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Architect/Engineer Joint Exam Bd	Architect	16500P1ARCD005	$75.00	$82.00	$68.00	$68.00	-$7.00	-$14.00
Architect/Engineer Joint Exam Bd	Architectural or Engineer Corp	16500P1ARCD011	$75.00	$82.00	$68.00	$68.00	-$7.00	-$14.00
Architect/Engineer Joint Exam Bd	Designer Engineering Systems	16500P1DSND007	$75.00	$82.00	$68.00	$68.00	-$7.00	-$14.00
Architect/Engineer Joint Exam Bd	Engineer Professional	16500P1ENGD006	$75.00	$82.00	$68.00	$68.00	-$7.00	-$14.00
Architect/Engineer Joint Exam Bd	Engineer Training	16500P1ENGD500	$75.00	$0.00	$68.00	$0.00	-$7.00	$0.00
Architect/Engineer Joint Exam Bd	Landscape Architect	16500P1LSAD014	$75.00	$82.00	$68.00	$68.00	-$7.00	-$14.00
Architect/Engineer Joint Exam Bd	Land Surveyor Professional	16500P1LSRD008	$75.00	$82.00	$68.00	$68.00	-$7.00	-$14.00
Real Estate Appraiser Bd	Appraiser Licensed	16500P1APPD004	$75.00	$170.00	$16.00	$16.00	-$59.00	-$154.00
Real Estate Appraiser Bd	Appraiser Residential Cert	16500P1APPD009	$75.00	$170.00	$16.00	$16.00	-$59.00	-$154.00
Real Estate Appraiser Bd	Appraiser General Cert	16500P1APPD010	$75.00	$170.00	$16.00	$16.00	-$59.00	-$154.00
Real Estate Appraiser Bd	Appraisal Management Company	16500P1APPD900	$4,000.00	$2,000.00	$4,000.00	$2,000.00	$0.00	$0.00
Athletic Agent	Athletic Agent	16500P1ATHD097	$75.00	$107.00	$38.00	$38.00	-$37.00	-$69.00
Auctioneer Bd	Auctioneer	16500P1AUBD052	$75.00	$170.00	$47.00	$47.00	-$28.00	-$123.00
Auctioneer Bd	Auction Company	16500P1AUBD053	$75.00	$170.00	$47.00	$47.00	-$28.00	-$123.00
Barbering Advisory Committee	Barber Establishment	16500P1BRBD180	$75.00	$82.00	$63.00	$63.00	-$12.00	-$19.00
Barbering Advisory Committee	Barber	16500P1BRBD182	$75.00	$82.00	$63.00	$63.00	-$12.00	-$19.00
Barbering Advisory Committee	Barber Instructor	16500P1BRBD183	$75.00	$82.00	$63.00	$63.00	-$12.00	-$19.00
Barbering Advisory Committee	Barber School	16500P1BRBD187	$75.00	$82.00	$63.00	$63.00	-$12.00	-$19.00
Barbering Advisory Committee	Barber Apprentice	16500P1BRBD601	$10.00	$0.00	$10.00	$0.00	$0.00	$0.00
Unarmed Combat Sports	Boxing Contestant	16500P1BXMA263	$40.00	$40.00	$40.00	$40.00	$0.00	$0.00
Unarmed Combat Sports	Boxing Contest Professional	16500P1BXMA264	$300.00	$300.00	$300.00	$300.00	$0.00	$0.00
Unarmed Combat Sports	Second	16500P1BXMA265	$40.00	$40.00	$40.00	$40.00	$0.00	$0.00
Unarmed Combat Sports	Boxing Promoter Professional	16500P1BXMA266	$500.00	$500.00	$500.00	$500.00	$0.00	$0.00
Unarmed Combat Sports	Mix Martial Arts Judge	16500P1BXMA267	$15.00	$15.00	$15.00	$15.00	$0.00	$0.00
Unarmed Combat Sports	Mix Martial Arts Referee	16500P1BXMA268	$15.00	$15.00	$15.00	$15.00	$0.00	$0.00
Unarmed Combat Sports	Matchmaker	16500P1BXMA270	$10.00	$10.00	$10.00	$10.00	$0.00	$0.00
Unarmed Combat Sports	Physician Ringside	16500P1BXMA271	$10.00	$10.00	$10.00	$10.00	$0.00	$0.00
Unarmed Combat Sports	Timekeeper	16500P1BXMA272	$10.00	$10.00	$10.00	$10.00	$0.00	$0.00
Unarmed Combat Sports	Boxing Judge	16500P1BXMA274	$15.00	$15.00	$15.00	$15.00	$0.00	$0.00
Unarmed Combat Sports	Boxing Referee	16500P1BXMA275	$15.00	$15.00	$15.00	$15.00	$0.00	$0.00
Unarmed Combat Sports	Mix Martial Arts Amateur Conte	16500P1BXMA276	$40.00	$40.00	$40.00	$40.00	$0.00	$0.00
Unarmed Combat Sports	Mix Martial Arts Contestant Pr	16500P1BXMA277	$40.00	$40.00	$40.00	$40.00	$0.00	$0.00
Unarmed Combat Sports	Mix Martial Arts Prof Club	16500P1BXMA278	$500.00	$500.00	$500.00	$500.00	$0.00	$0.00

Board/Admin.	License/Credential Name	Project	Current Initial Fee	Current Renewal Fee	Proposed Initial Fee	Proposed Renewal Fee	Initial Fee Change	Renewal Fee Change
Unarmed Combat Sports	Mix Martial Arts Contest Prof	16500P1BXMA279	$300.00	$300.00	$300.00	$300.00	$0.00	$0.00
Unarmed Combat Sports	Mix Martial Arts Promoter Prof	16500P1BXMA280	$500.00	$500.00	$500.00	$500.00	$0.00	$0.00
Unarmed Combat Sports	Unarmed Combat Promoter	16500P1BXMA281	$500.00	$500.00	$500.00	$500.00	$0.00	$0.00
Unarmed Combat Sports	Unarmed Combat Contest	16500P1BXMA282	$300.00	$300.00	$300.00	$300.00	$0.00	$0.00
Unarmed Combat Sports	Kickboxing Contestant Amateur	16500P1BXMA283	$40.00	$40.00	$40.00	$40.00	$0.00	$0.00
Unarmed Combat Sports	Kickboxing Contestant Prof	16500P1BXMA284	$40.00	$40.00	$40.00	$40.00	$0.00	$0.00
Unarmed Combat Sports	Muay Thai Contestant Amateur	16500P1BXMA285	$40.00	$40.00	$40.00	$40.00	$0.00	$0.00
Unarmed Combat Sports	Kickboxing Judge	16500P1BXMA287	$15.00	$15.00	$15.00	$15.00	$0.00	$0.00
Unarmed Combat Sports	Muay Thai Judge	16500P1BXMA288	$15.00	$15.00	$15.00	$15.00	$0.00	$0.00
Unarmed Combat Sports	Kickboxing Referee	16500P1BXMA289	$15.00	$15.00	$15.00	$15.00	$0.00	$0.00
Unarmed Combat Sports	Muay Thai Referee	16500P1BXMA290	$15.00	$15.00	$15.00	$15.00	$0.00	$0.00
Crematory Authority	Crematory Authority	16500P1CACD098	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Cemetery Bd	Cemetery Authority Licensed	16500P1CEMD095	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Cemetery Bd	Cemetery Salesperson	16500P1CEMD096	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Cemetery Bd	Cemetery Preneed Seller	16500P1CEMD101	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Cemetery Bd	Cemetery Authority Religious	16500P1CEMD102	$75.00	$0.00	$75.00	$0.00	$0.00	$0.00
Cemetery Bd	Cemetery Authority Registered	16500P1CEMD195	$10.00	$10.00	$10.00	$10.00	$0.00	$0.00
Chiropractic Exam Bd	Chiropractor	16500P1CHID012	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Chiropractic Exam Bd	Chiropractic Radiological Tech	16500P1CHID113	$53.00	$44.00	$53.00	$53.00	$0.00	$9.00
Chiropractic Exam Bd	Chiropractic Tech	16500P1CHID114	$53.00	$44.00	$53.00	$53.00	$0.00	$9.00
Cosmetology Exam Bd	Aesthetics Establishment	16500P1COSD069	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Electrology Establishment	16500P1COSD070	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Manicuring Establishment	16500P1COSD071	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Aesthetics Instructor	16500P1COSD072	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Electrology Instructor	16500P1COSD073	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Manicuring Instructor	16500P1COSD074	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Cosmetology Establishment	16500P1COSD080	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Cosmetologist	16500P1COSD082	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Cosmetology Instructor	16500P1COSD083	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Electrologist	16500P1COSD084	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Manicurist	16500P1COSD085	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Aesthetician	16500P1COSD086	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Cosmetology School	16500P1COSD087	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Electrology School	16500P1COSD088	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Manicuring School	16500P1COSD089	$75.00	$82.00	$11.00	$11.00	-$64.00	-$71.00
Cosmetology Exam Bd	Cosmetology Apprentice	16500P1COSD600	$10.00	$0.00	$10.00	$0.00	$0.00	$0.00

Board/Admin.	License/Credential Name	Project	Current Initial Fee	Current Renewal Fee	Proposed Initial Fee	Proposed Renewal Fee	Initial Fee Change	Renewal Fee Change
Dentistry Exam Bd	Dentist	16500P1DEND015	$75.00	$123.00	$74.00	$74.00	-$1.00	-$49.00
Dentistry Exam Bd	Dental Hygienist	16500P1DEND016	$75.00	$123.00	$74.00	$74.00	-$1.00	-$49.00
Dentistry Exam Bd	Dentistry Mobile Progr Registr	16500P1DEND115	$75.00	$123.00	$74.00	$74.00	-$1.00	-$49.00
DSPS Direct Licensing	DSPS Licensed Midwife	16500P1DSPS049	$75.00	$107.00	$59.00	$59.00	-$16.00	-$48.00
DSPS Direct Licensing	DSPS Firearms Certifier	16500P1DSPS064	$0.00	$8.00	$0.00	$0.00	$0.00	-$8.00
DSPS Direct Licensing	DSPS WI Regis Interior Design	16500P1DSPS109	$75.00	$107.00	$59.00	$59.00	-$16.00	-$48.00
DSPS Direct Licensing	Juvenile Martial Arts Instruct	16500P1DSPS118	$75.00	$75.00	$59.00	$59.00	-$16.00	-$16.00
DSPS Direct Licensing	DSPS Behavior Analyst	16500P1DSPS140	$75.00	$75.00	$59.00	$59.00	-$16.00	-$16.00
DSPS Direct Licensing	DSPS Transportation Network Co	16500P1DSPS184	$5,000.00	$5,000.00	$5,000.00	$5,000.00	$0.00	$0.00
DSPS Direct Licensing	DSPS Temp Educ Training Permit	16500P1DSPS850	$10.00	$0.00	$10.00	$0.00	$0.00	$0.00
DSPS Direct Licensing	DSPS Special License	16500P1DSPS876	$75.00	$0.00	$59.00	$0.00	-$16.00	$0.00
DSPS Direct Licensing	Home Med Oxygen Provider	16500P1HMOP048	$75.00	$128.00	$59.00	$59.00	-$16.00	-$69.00
DSPS Direct Licensing	Special Licenses	DSPS Special License	$75.00	$0.00	$59.00	$0.00	-$16.00	$0.00
Funeral Dir Exam Bd	Funeral Dir Excl Embalm	16500P1FDRD075	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Funeral Dir Exam Bd	Funeral Dir Good Standing	16500P1FDRD076	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Funeral Dir Exam Bd	Funeral Director	16500P1FDRD077	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Funeral Dir Exam Bd	Funeral Establishment	16500P1FDRD078	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Funeral Dir Exam Bd	Agent Burial Agreements	16500P1FDRD107	$75.00	$0.00	$75.00	$0.00	$0.00	$0.00
Funeral Dir Exam Bd	Funeral Dir Apprentice	16500P1FDRD700	$10.00	$10.00	$10.00	$10.00	$0.00	$0.00
Geo./Hydro./Soil Sci. Exam Bd	Geologist Professional	16500P1GEOD013	$75.00	$170.00	$56.00	$56.00	-$19.00	-$114.00
Geo./Hydro./Soil Sci. Exam Bd	Geology Firm	16500P1GEOD201	$75.00	$170.00	$56.00	$56.00	-$19.00	-$114.00
Geo./Hydro./Soil Sci. Exam Bd	Hydrologist Professional	16500P1HYDD111	$75.00	$170.00	$56.00	$56.00	-$19.00	-$114.00
Geo./Hydro./Soil Sci. Exam Bd	Hydrology Firm	16500P1HYDD202	$75.00	$170.00	$56.00	$56.00	-$19.00	-$114.00
Geo./Hydro./Soil Sci. Exam Bd	Soil Scientist Professional	16500P1SSCD112	$75.00	$170.00	$56.00	$56.00	-$19.00	-$114.00
Geo./Hydro./Soil Sci. Exam Bd	Soil Scientist Firm	16500P1SSCD203	$75.00	$170.00	$56.00	$56.00	-$19.00	-$114.00
Hearing Speech Examing Bd	Hearing Instrument Spec	16500P1HADD060	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Hearing Speech Examing Bd	Speech Language Pathologist	16500P1HADD154	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Hearing Speech Examing Bd	Audiologist	16500P1HADD156	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Music Art Dance Therapists	Art Therapist	16500P1MADD036	$75.00	$107.00	$68.00	$68.00	-$7.00	-$39.00
Music Art Dance Therapists	Dance Therapist	16500P1MADD037	$75.00	$107.00	$68.00	$68.00	-$7.00	-$39.00
Music Art Dance Therapists	Music Therapist	16500P1MADD038	$75.00	$107.00	$68.00	$68.00	-$7.00	-$39.00
MFT, PC, & SW Exam Bd	Counselor Professional Licen	16500P1CPCD125	$75.00	$91.00	$62.00	$62.00	-$13.00	-$29.00
MFT, PC, & SW Exam Bd	Counselor Professional Trn	16500P1CPCD226	$75.00	$0.00	$62.00	$0.00	-$13.00	$0.00
MFT, PC, & SW Exam Bd	Marriage Family Therapist	16500P1MFTD124	$75.00	$85.00	$62.00	$62.00	-$13.00	-$23.00
MFT, PC, & SW Exam Bd	Marriage Family Therapist Trn	16500P1MFTD228	$75.00	$0.00	$62.00	$0.00	-$13.00	$0.00
MFT, PC, & SW Exam Bd	Social Worker	16500P1SOCD120	$75.00	$85.00	$62.00	$62.00	-$13.00	-$23.00

Board/Admin.	License/Credential Name	Project	Current Initial Fee	Current Renewal Fee	Proposed Initial Fee	Proposed Renewal Fee	Initial Fee Change	Renewal Fee Change
MFT, PC, & SW Exam Bd	Social Worker Adv Practice	16500P1SOCD121	$75.00	$85.00	$62.00	$62.00	-$13.00	-$23.00
MFT, PC, & SW Exam Bd	Social Worker Independent	16500P1SOCD122	$75.00	$85.00	$62.00	$62.00	-$13.00	-$23.00
MFT, PC, & SW Exam Bd	Social Worker Lic Clinical	16500P1SOCD123	$75.00	$85.00	$62.00	$62.00	-$13.00	-$23.00
MFT, PC, & SW Exam Bd	Social Worker Training	16500P1SOCD127	$75.00	$0.00	$62.00	$0.00	-$13.00	$0.00
Nursing Home Admin Exam Bd	Nursing Home Administrator	16500P1NHAD065	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Board of Nursing	Nurse Registered	16500P1NURD030	$75.00	$82.00	$73.00	$73.00	-$2.00	-$9.00
Board of Nursing	Nurse Licensed Practical	16500P1NURD031	$75.00	$82.00	$73.00	$73.00	-$2.00	-$9.00
Board of Nursing	Nurse Midwife	16500P1NURD032	$75.00	$82.00	$73.00	$73.00	-$2.00	-$9.00
Board of Nursing	Nurse Adv Practice Prescriber	16500P1NURD033	$75.00	$82.00	$73.00	$73.00	-$2.00	-$9.00
Optometry Board	Optometrist	16500P1OPTD035	$75.00	$170.00	$75.00	$75.00	$0.00	-$95.00
Private Detective	Private Detective Agency	16500P1PDET062	$75.00	$107.00	$8.00	$8.00	-$67.00	-$99.00
Private Detective	Private Detective	16500P1PDET063	$75.00	$107.00	$8.00	$8.00	-$67.00	-$99.00
Pharmacy Exam Bd	Pharmacist	16500P1PHMD040	$75.00	$128.00	$74.00	$74.00	-$1.00	-$54.00
Pharmacy Exam Bd	Pharmacy In State	16500P1PHMD042	$75.00	$128.00	$74.00	$74.00	-$1.00	-$54.00
Pharmacy Exam Bd	Pharmacy Out of State	16500P1PHMD043	$75.00	$128.00	$74.00	$74.00	-$1.00	-$54.00
Pharmacy Exam Bd	Drug Device Manufacturer	16500P1PHMD044	$75.00	$128.00	$74.00	$74.00	-$1.00	-$54.00
Pharmacy Exam Bd	Wholesale Distrib Presc Drugs	16500P1PHMD045	$75.00	$128.00	$74.00	$74.00	-$1.00	-$54.00
Physical Therapy Exam Bd	Physical Therapist Assistant	16500P1PHTD019	$75.00	$75.00	$68.00	$68.00	-$7.00	-$7.00
Physical Therapy Exam Bd	Physical Therapist	16500P1PHTD024	$75.00	$75.00	$68.00	$68.00	-$7.00	-$7.00
Private Security Person	Private Security Person	16500P1PSEC108	$75.00	$107.00	$27.00	$27.00	-$48.00	-$80.00
Psychology Exam Bd	Psychologist	16500P1PSYD057	$75.00	$170.00	$66.00	$66.00	-$9.00	-$104.00
Psychology Exam Bd	School Psychologist Priv Prac	16500P1PSYD058	$75.00	$170.00	$66.00	$66.00	-$9.00	-$104.00
Radiography Exam Bd	Radiographer Licensed	16500P1RADD142	$75.00	$82.00	$65.00	$65.00	-$10.00	-$17.00
Radiography Exam Bd	Ltd Xray Machine Oper Permit	16500P1RADD144	$75.00	$82.00	$65.00	$65.00	-$10.00	-$17.00
Real Estate Exam Bd	Real Estate Broker	16500P1REBD090	$75.00	$82.00	$75.00	$75.00	$0.00	-$7.00
Real Estate Exam Bd	Real Estate Business Entity	16500P1REBD091	$75.00	$82.00	$75.00	$75.00	$0.00	-$7.00
Real Estate Exam Bd	Timeshare Salesperson	16500P1REBD093	$75.00	$82.00	$75.00	$75.00	$0.00	-$7.00
Real Estate Exam Bd	Real Estate Salesperson	16500P1REBD094	$75.00	$82.00	$75.00	$75.00	$0.00	-$7.00
Home Inspector	Home Inspector	16500P1RHID106	$75.00	$107.00	$51.00	$51.00	-$24.00	-$56.00
Substance Abuse Counselors	Subst Abuse Counselor Training	16500P1SAAC130	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Substance Abuse Counselors	Subst Abuse Counselor	16500P1SAAC131	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Substance Abuse Counselors	Subst Abuse Counselor Clinical	16500P1SAAC132	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Substance Abuse Counselors	Subst Abuse Clin Sup Training	16500P1SAAC133	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Substance Abuse Counselors	Subst Abuse Intermed Clin Sup	16500P1SAAC134	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Substance Abuse Counselors	Subst Abuse Indep Clin Sup	16500P1SAAC135	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Substance Abuse Counselors	Subst Abuse Prev Specialist Tr	16500P1SAAC136	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00

Board/Admin.	License/Credential Name	Project	Current Initial Fee	Current Renewal Fee	Proposed Initial Fee	Proposed Renewal Fee	Initial Fee Change	Renewal Fee Change
Substance Abuse Counselors	Subst Abuse Prevent Specialist	16500P1SAAC137	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Sanitarians Registered	Sanitarians Registered	16500P1SAND197	$75.00	$107.00	$75.00	$75.00	$0.00	-$32.00
Sign Language Interpeters Council	Sign Language Interp	16500P1SLID150	$75.00	$75.00	$75.00	$75.00	$0.00	$0.00
Sign Language Interpeters Council	Sign Lanugage Interpr Restric	16500P1SLID151	$75.00	$75.00	$75.00	$75.00	$0.00	$0.00
Tanning	Tanning Establishments	16500P1TANE401	$10.00	$10.00	$10.00	$10.00	$0.00	$0.00
Tattoo Body Art Piercing	Tattoo Body Art Piercing Estab	16500P1TBAP402	$135.00	$220.00	$19.00	$19.00	-$116.00	-$201.00
Tattoo Body Art Piercing	Tattoo Body Art Piercing Pract	16500P1TBAP403	$60.00	$60.00	$19.00	$19.00	-$41.00	-$41.00
Tattoo Body Art Piercing	Body Piercing	16500P1TBAP404	$60.00	$60.00	$19.00	$19.00	-$41.00	-$41.00
Medical Bd Affiliates	Anesthesiology Assist	16500P1ANSD017	$75.00	$82.00	$75.00	$75.00	$0.00	-$7.00
Medical Bd Affiliates	Athletic Trainer	16500P1ATBD039	$75.00	$75.00	$75.00	$75.00	$0.00	$0.00
Medical Bd Affiliates	Dietician Certified	16500P1DABD029	$75.00	$75.00	$75.00	$75.00	$0.00	$0.00
Medical Bd Affiliates	DSPS Resident Educ License	16500P1DSPS851	$10.00	$0.00	$10.00	$0.00	$0.00	$0.00
Medical Bd Affiliates	DSPS Special Permit	16500P1DSPS875	$75.00	$0.00	$75.00	$0.00	$0.00	$0.00
Medical Bd Affiliates	Medicine Surgery MD	16500P1MEDD020	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00
Medical Bd Affiliates	Medicine Surgery DO	16500P1MEDD021	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00
Medical Bd Affiliates	Administrative Physician MD	16500P1MEDD220	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00
Medical Bd Affiliates	Administrative Physician DO	16500P1MEDD221	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00
Medical Bd Affiliates	Medicine Surgery MD Compact	16500P1MEDD320	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00
Medical Bd Affiliates	Medicine Surgery DO Compact	16500P1MEDD321	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00
Medical Bd Affiliates	Massage Therapy Bodyworker	16500P1MTBD146	$75.00	$82.00	$75.00	$75.00	$0.00	-$7.00
Medical Bd Affiliates	Occupational Therapist	16500P1OTBD026	$75.00	$75.00	$75.00	$75.00	$0.00	$0.00
Medical Bd Affiliates	Occupational Therapist Assist	16500P1OTBD027	$75.00	$75.00	$75.00	$75.00	$0.00	$0.00
Medical Bd Affiliates	Physician Assistant	16500P1PHAD023	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00
Medical Bd Affiliates	Podiatrist	16500P1PODD025	$75.00	$91.00	$75.00	$75.00	$0.00	-$16.00
Medical Bd Affiliates	Perfusionist	16500P1PRFD018	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00
Medical Bd Affiliates	Respiratory Care Practitioner	16500P1RSPD028	$75.00	$141.00	$75.00	$75.00	$0.00	-$66.00